

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TIM JONES, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

REGAL CINEMAS, INC.,

Defendant.

Civil Action No. 1:23-cv-11145-MMG

Hon. Margaret M. Garnett

**DECLARATION OF PHILIP L. FRAIETTA IN SUPPORT OF PLAINTIFF'S  
MOTION FOR ATTORNEYS' FEES, COSTS, EXPENSES, AND SERVICE AWARD**

I, Philip L. Fraietta, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a partner at Bursor & Fisher, P.A., Class Counsel in this action. I am an attorney at law licensed to practice in the State of New York, and I am a member of the bar of this Court. I make this Declaration in support of Plaintiff's Motion for Attorneys' Fees, Costs, Expenses, and Service Award and am fully competent to do so. I have personal knowledge of all matters set forth herein unless otherwise indicated, and, if called upon to testify, I could and would competently do so.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the Parties' Class Action Settlement Agreement, and the exhibits attached thereto.

3. Before filing this case, my firm commenced a pre-suit investigation of companies' violations of the newly-enacted New York Arts and Cultural Affairs Law ("ACAL") § 25.07(4), including Defendant Regal Cinemas, Inc. ("Defendant"). The theory of liability was novel. No case had ever been brought under ACAL § 25.07(4), nor had any court issued an opinion interpreting the statute. Thus, our investigation was extensive and involved in-depth research

into the legislative history of ACAL § 25.07(4), issues pertaining to statutory interpretation under New York law, as well as factual research regarding Defendant's website and implementation of booking fees.

4. Despite knowing we were wading into uncharted waters, on December 23, 2023, Plaintiff and Class Counsel filed the Class Action Complaint in this matter. ECF No. 1. The material allegations of the Complaint center on Defendant's alleged failure to disclose a "booking fee" for online purchase of tickets to its movie theaters in New York state at the first time that the purchaser saw the purchase price of the tickets, in alleged violation of ACAL § 25.07(4). *See generally id.*

5. On February 16, 2024, Defendant responded to the Complaint with a pre-motion letter requesting permission to file a motion to dismiss, pursuant to Fed. R. Civ. P. 12(b)(1) (ECF No. 9). Plaintiff opposed the letter on February 23, 2024 (ECF No. 10) and the Court conducted a conference on March 13, 2024, at which it granted Defendant leave to file its motion to dismiss.

6. On April 12, 2024, Defendant filed its motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) (ECF No. 18). Plaintiff filed his Opposition on May 13, 2024 (ECF No. 20), and Defendant filed its reply on May 28, 2024 (ECF No. 22).

7. From the outset of the case, the Parties engaged in settlement discussions pursuant to their obligations under Fed. R. Civ. P. 26 and, to that end, agreed to participate in a private mediation on September 30, 2024 with the Honorable Shira A. Scheindlin (Ret.), formerly of the Southern District of New York.

8. As part of the mediation, the Parties exchanged informal discovery, including on issues such as the size and scope of the putative class, specifically the amount of Booking Fees

Defendant collected during the relevant time period.

9. Given that the information exchanged would have been, in large part, the same information produced in formal discovery related to issues of class certification and summary judgment, the Parties had sufficient information to assess the strengths and weaknesses of the claims and defenses.

10. On September 30, 2024, the Parties conducted a full-day mediation before Judge Scheindlin. At the conclusion of the mediation, the Parties reached an agreement on all material terms of a class action settlement and executed a term sheet.

11. In the weeks following, a Settlement Administrator was engaged and the Parties, in consultation with the Settlement Administrator on matters of notice and claims administration, negotiated the full-form Settlement.

12. Informal discovery showed that Defendant collected \$2,380,551.54 in allegedly unlawful Booking Fees and sold 1,255,995 electronic tickets through 565,992 “guest” checkout transactions on Defendant’s Website, for film screenings at Defendant’s cinemas located in New York state from July 31, 2023, to and through July 15, 2024. The Parties acknowledge that Defendant changed the purchase flow for tickets on its online platforms as of July 16, 2024, to display the Booking Fee that was the subject of this litigation in a manner that complies with ACAL § 25.07(4). Furthermore, all causes of action against Defendant that arose prior to July 31, 2023, were discharged in bankruptcy. *In re Cineworld Grp. PLC*, Case No. 22-90168 (S.D. Tx.) at ECF No. 1982 ¶¶ 98; 1943, § IX[A]; ECF No. 2067.

13. The resulting \$2,500,000.00 proposed Settlement Amount secures extraordinary relief for the class, which is defined as “all individuals in the United States who purchased electronic tickets to any film screening in any of Defendant’s cinemas located in New York state

from Defendant's Website from July 31, 2023, to and through July 15, 2024, using the guest checkout process." Agreement ¶ 1.38.<sup>1</sup>

14. The Settlement also provides meaningful prospective relief aimed at the challenged conduct, as in connection with the Settlement, Defendant agrees to maintain the purchase flow for tickets to New York theaters on its Website in a manner that clearly and conspicuously discloses the total cost of the tickets, inclusive of Booking Fees, prior to the ticket being selected for purchase, unless and until ACAL § 25.07(4) is amended, repealed, or otherwise invalidated.

15. Plaintiff and Class Counsel recognize that despite our belief in the strength of Plaintiff's claims, and Plaintiff's and the Class's ability to secure an award of damages under ACAL §§ 25.07(4) and 25.33, the expense, duration, and complexity of protracted litigation would be substantial and the outcome of trial uncertain. Thus, the Settlement secures a more proximate and more certain monetary benefit to the Class than continued litigation.

16. Plaintiff and Class Counsel are also mindful that absent a settlement, the success of Defendant's various defenses in this case could deprive Plaintiff and the Settlement Class Members of any potential relief whatsoever. This is especially true in light of the fact that there is no binding authority on ACAL § 25.07(4) and no case under the statute has progressed to contested class certification, summary judgment, or trial. Two courts have granted a motion to

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<sup>1</sup> Excluded from the Settlement Class are (1) any member of the Regal Crown Club program from July 31, 2023, to and through July 15, 2024; (2) any Judge or Magistrate presiding over this Action and members of their families; (3) the Defendant, Defendant's subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, and employees; (4) persons who submit a timely and valid request for exclusion from the class; and (5) the legal representatives, successors or assigns of any such excluded persons; and (6) Class Counsel.

dismiss. *Curanaj v. Tao Group, Inc.*, Index No. 56152/2024, NYSCEF No. 36 (Sup. Ct. Westchester Cnty. July 25, 2024); *Frias v. City Winery New York, LLC*, Index No. 651284/2024, NYSCEF No. 31 (Sup. Ct. New York Cnty. June 17, 2024). And numerous other motions to dismiss remain pending. *See, e.g., Summerville v. Gotham Comedy Foundation, Inc.*, Case No. 24-cv-01484-ER, ECF No. 15 (S.D.N.Y. June 21, 2024); *Presson v. Alamo Intermediate II Holdings, LLC*, Case No. 24-cv-00170-ER, ECF No. 21 (S.D.N.Y. June 21, 2024); *Bingahlan v. American Museum of the Moving Image d/b/a Museum of the Moving Image*, Index No. 703696/2024, NYSCEF No. 15 (Sup. Ct. Queens Cnty. July 2, 2024); *Berryman v. Reading International, Inc.*, Case No. 24-cv-00750-PAE, ECF No. 10 (S.D.N.Y. Apr. 5, 2024).

17. Defendant is also represented by highly experienced attorneys who have made clear that absent a settlement, they were prepared to continue their vigorous defense of this case, including by moving for summary judgment. More specifically, Plaintiff and Class Counsel are aware that Defendant would continue to assert a number of defenses on the merits, including (i) Plaintiff's lack of standing; (ii) ACAL § 25.07(4) does not apply to movie theaters; (iii) Plaintiff's claims are barred by the voluntary payment doctrine; and (iv) Defendant's fees are permitted under ACAL § 25.29, and therefore are not unlawful as Plaintiff alleged. Critically, ACAL § 25.07(4) has hardly been litigated, and thus, the scope of the statute is in dispute as there is no binding authority interpreting the statute. Defendant would also oppose class certification vigorously, and Defendant would take the position that Plaintiff is not entitled to bring his claims on a class wide basis. Defendant would also prepare a competent defense at trial. And looking beyond trial, Plaintiff is also keenly aware that Defendant could appeal the merits of any adverse decision.

18. Plaintiff and Class Counsel believe that the monetary relief provided by the

settlement weighs heavily in favor of a finding that the settlement is fair, reasonable, and adequate, and well within the range of approval.

19. Since the Court granted preliminary approval, my firm has worked with the Settlement Administrator, Epiq, to carry out the Court-ordered notice plan. Specifically, my firm helped compile and review the contents of the required notice to State Attorney Generals pursuant to 28 U.S.C. § 1715, reviewed the final claim and notice forms, and reviewed and tested the settlement website before it launched live.

20. Since class notice has been disseminated, my firm has worked with Epiq on a weekly basis to monitor settlement claims and any other issues that may arise. My firm has also fielded calls from Settlement Class Members and assisted them with filing claims.

21. Attached hereto as **Exhibit 2** are my firm's detailed billing diaries for this matter, as well as a summary of the same. I have personally reviewed all of my firm's time entries associated with this case, and have used billing judgment to ensure that duplicative and unnecessary time has been excluded and that only time reasonably devoted to the litigation has been included, and all time devoted to preparing of the fee application has been removed. My firm's time entries were regularly and contemporaneously recorded by me and the other timekeepers pursuant to firm policy and have been maintained in the computerized records of my firm.

22. Through January 14, 2025, my firm expended 153.9 hours in this case, excluding time spent on preparing this fee application.

23. My firm's lodestar fee in this case, based on current billing rates, is \$116,985.

24. In addition to the time enumerated above, my firm will incur additional hours of future work in connection with the fairness hearing, coordinating with Epiq, monitoring

settlement administration, and responding to Settlement Class Member inquiries.

25. To date, my firm has also expended \$8,487.02 in out-of-pocket costs and expenses in connection with the prosecution of this case. Attached as **Exhibit 3** is an itemized list of those costs and expenses. These costs and expenses are reflected in the records of my firm, and were necessary to prosecute this litigation. Cost and expense items are billed separately, and such charges are not duplicated in my firm's billing rates.

26. Included within **Exhibit 4** is a chart setting forth the hourly rates charged for lawyers and staff at my firm. Based on my knowledge and experience, the hourly rates charged by my firm are within the range of market rates charged by attorneys of equivalent experience, skill, and expertise. I have personal knowledge of the range of hourly rates typically charged by counsel in our field in New York, California, Florida, and elsewhere, both on a current basis and in the past. In determining my firm's hourly rates from year to year, my partners and I have consciously taken market rates into account and have aligned our rates with the market.

27. Through my practice, I have become familiar with the non-contingent market rates charged by attorneys in New York, California, Florida, and elsewhere (my firm's offices are in New York City, Walnut Creek, California, and Miami, Florida). This familiarity has been obtained in several ways: (1) by litigating attorneys' fee applications; (2) by discussing fees with other attorneys; (3) by obtaining declarations regarding prevailing market rates filed by other attorneys seeking fees; and (4) by reviewing attorneys' fee applications and awards in other cases, as well as surveys and articles on attorney's fees in the legal newspapers and treatises. The information I have gathered shows that my firm's rates are in line with the non-contingent market rates charged by attorneys of reasonably comparable experience, skill, and reputation for reasonably comparable class action work. In fact, comparable hourly rates have been found

reasonable by various courts for reasonably comparable services, including:

- i. *Laydon v. Mizuho Bank, Ltd.*, No. 1:12-cv-03419-GBD, ECF No. 837 (S.D.N.Y. Dec. 7, 2017), approving partner rates of \$875 to \$975 and associate rates of \$325 to \$600.
- ii. *In re Credit Default Swaps Antitrust Litig.*, 2016 WL 2731524, at \*17 (S.D.N.Y. April 26, 2016), approving partner rates of \$834 to \$1,125 and associate rates of \$411 to \$714.
- iii. *In re Platinum & Palladium Commod. Litig.*, Slip Op. No. 10-cv-3617, 2015 U.S. Dist. LEXIS 98691, at \*13 (S.D.N.Y. July 7, 2015), approving billing rates of \$950 and \$905 per hour and referring to a recent National Law Journal survey yielding an average hourly partner billing rate of \$982 in New York.
- iv. *In re Bear Stearns Cos., Inc. Sec., Deriv., & ERISA Litig.*, Case No. 1:08-md-01963-RWS, 909 F. Supp. 2d 259, 271-72 (S.D.N.Y. 2012), approving fee award based on *hourly* rates ranging from \$275 to \$650 for associates and \$725 to \$975 for partners, as set forth in ECF No. 302-5.
- v. *In re TFT-LCD (Flat Panel) Antitrust Litigation*, No. M 07 1827 SI, MDL, No. 1827 (N.D.Cal. 2013), an antitrust class action, in which the court found blended hourly rates of \$1000, \$950, \$861, \$825, \$820, and \$750 per hour reasonable for the lead class counsel.
- vi. *Williams v. H&R Block Enterprises, Inc.*, Alameda County Superior Ct. No. RG08366506, Order of Final Approval and Judgment filed November 8, 2012, a wage and hour class action, in which the court found the hourly rates of \$785, \$775, and \$750 reasonable for the more senior class counsel.
- vii. *Luquetta v. The Regents of the Univ. of California*, San Francisco Superior Ct. No. CGC-05-443007, Order Granting Plaintiffs' Motion for Common Fund Attorneys' Fees and Expenses, filed October 31, 2012, a class action to recover tuition overcharges, in which the court found the hourly rates of \$850, \$785, \$750, and \$700 reasonable for Plaintiffs' more experienced counsel.
- viii. *Pierce v. County of Orange*, 905 F. Supp. 2d 1017 (C.D. Cal. 2012), a civil rights class action brought by pre-trial detainees, in which the court approved a lodestar-based, *inter alia*, on 2011 rates of \$850 and \$825 per hour.
- ix. *Holloway et. al. v. Best Buy Co., Inc.*, No. 05-5056 PJH (N.D. Cal. 2011) (Order dated November 9, 2011), a class action alleging that Best Buy discriminated against female, African American and Latino employees by denying them promotions and lucrative sales positions, in which the court approved lodestar-based rates of up to \$825 per hour.
- x. *Californians for Disability Rights, Inc., et al. v. California Department of Transportation, et al.*, 2010 U.S. Dist. LEXIS 141030 (N.D. Cal. 2010), adopted

by Order Accepting Report and Recommendation filed February 2, 2011, a class action in which the court found reasonable 2010 hourly rates of up to \$835 per hour.

- xi. *Credit/Debit Card Tying Cases*, San Francisco County Superior Court, JCCP No. 4335, Order Granting Plaintiffs' Motion for Attorneys' Fees, Expenses, and Incentive Awards, filed August 23, 2010, an antitrust class action, in which the court, before applying a 2.0 lodestar multiplier, found reasonable 2010 hourly rates of \$975 for a 43-year attorney, \$950 for a 46-year attorney, \$850 for 32 and 38 year attorneys, \$825 for a 35-year attorney, \$740 for a 26-year attorney, \$610 for a 13-year attorney, and \$600 for a 9-year attorney, and \$485 for a 5-year attorney.
- xii. *Savaglio, et al. v. WalMart*, Alameda County Superior Court No. C-835687-7, Order Granting Class Counsel's Motion for Attorneys' Fees, filed September 10, 2010, a wage and hour class action, in which the court found reasonable, before applying a 2.36 multiplier, rates of up to \$875 per hour for a 51-year attorney, \$750 for a 39-year attorney, and \$775 for a 33-year attorney.
- xiii. *Qualcomm, Inc. v. Broadcom, Inc.*, Case No. 05-CV-1958-B, 2008 WL 2705161 (S.D. Cal. 2008), in which the court found the 2007 hourly rates requested by Wilmer Cutler, Pickering, Hale & Dorr LLP reasonable; those rates ranged from \$45 to \$300 for staff and paralegals, from \$275 to \$505 for associates and counsel, and from \$435 to \$850 for partners.

28. The modesty and reasonableness of my firm's hourly rates is also supported by several surveys of legal rates, including the following:

- i. In an article called "Senior Partners Approach \$3000 An Hour As More Billing Rate Hikes Expected in 2025," written by Mimi Lamarre and published by Law.com on September 24, 2024, noted that seeing billing rates of \$ 3000 an hour for partners and \$1000 an hour is becoming increasingly common. The article notes that 16 firms in the Am Law 50 have third-year associates charging over \$1,000 an hour. A true and correct copy of this article is attached hereto as **Exhibit 5**.
- ii. In an article entitled "BigLaw partners hand over work to keep costs down, analysis shows," written by Robert Freedman and published in Legal Dive on October 22, 2024, the author notes that among the AmLaw 100 firms, for the year 2024, the typical blended hourly rate (taking account for both partners and associates) was \$1057, and that the typical hourly rate for partners at New York law firms was \$1,525. A true and correct copy of this article is attached hereto as **Exhibit 6**.
- iii. In an article entitled "On Sale: The \$1,150-Per Hour Lawyer," written by Jennifer Smith and published in the Wall Street Journal on April 9, 2013, the author

describes the rapidly growing number of lawyers billing at \$1,150 or more revealed in public filings and major surveys. The article also notes that in the first quarter of 2013, the 50 top-grossing law firms billed their partners at an average rate between \$879 and \$882 per hour. A true and correct copy of this article is attached hereto as **Exhibit 7**.

- iv. In an article published April 16, 2012, the Am Law Daily described the 2012 Real Rate Report, an analysis of \$7.6 billion in legal bills paid by corporations over a five-year period ending in December 2011. A true and correct copy of that article is attached hereto as **Exhibit 8**. That article confirms that the rates charged by experienced and well-qualified attorneys have continued to rise over this five-year period, particularly in large urban areas like the San Francisco Bay Area. It also shows, for example that the top quartile of lawyers bill at an average of “just under \$900 per hour.”
- v. Similarly, on February 25, 2011, the Wall Street Journal published an on-line article entitled “Top Billers.” A true and correct copy of that article is attached hereto as **Exhibit 9**. That article listed the 2010 and/or 2009 hourly rates for more than 125 attorneys, in a variety of practice areas and cases, who charged \$1,000 per hour or more. Indeed, the article specifically lists *eleven* (11) Gibson Dunn & Crutcher attorneys billing at \$1,000 per hour or more.
- vi. On February 22, 2011, the ALM’s Daily Report listed the 2006-2009 hourly rates of numerous San Francisco attorneys. A true and correct copy of that article is attached hereto as **Exhibit 10**. Even though rates have increased significantly since that time, my firm’s rates are well within the range of rates shown in this survey.
- vii. The Westlaw CourtExpress Legal Billing Reports for May, August, and December 2009 (attached hereto as **Exhibit 11**) show that as far back as 2009, attorneys with as little as 19 years of experience were charging \$800 per hour or more, and that the rates requested here are well within the range of those reported. Again, current rates are significantly higher.
- viii. The National Law Journal’s December 2010, nationwide sampling of law firm billing rates (attached hereto as **Exhibit 12**) lists 32 firms whose highest rate was \$800 per hour or more, eleven firms whose highest rate was \$900 per hour or more, and three firms whose highest rate was \$1,000 per hour or more.
- ix. On December 16, 2009, The American Lawyer published an online article entitled “Bankruptcy Rates Top \$1,000 in 2008-2009.” That article is attached hereto as **Exhibit 13**. In addition to reporting that several attorneys had charged rates of \$1,000 or more in bankruptcy filings in Delaware and the Southern District of New York, the article also listed 18 firms that charged median partner rates of from \$625 to \$980 per hour.

- x. According to the National Law Journal's 2014 Law Firm Billing Survey, law firms with their largest office in New York have average partner and associate billing rates of \$882 and \$520, respectively. Karen Sloan, *\$1,000 Per Hour Isn't Rare Anymore; Nominal Billing Levels Rise, But Discounts Ease Blow*, National Law Journal, Jan. 13, 2014. The survey also shows that it is common for legal fees for partners in New York firms to exceed \$1,000 an hour. *Id.* A true and correct copy of this survey is attached hereto as **Exhibit 14**.

29. Given Bursor & Fisher's unique experience and track record of success winning 6 of 6 class action trials, my hourly rate is set at \$775. My firm's rates have been deemed reasonable by Courts across the country, including in New York, Michigan, California, Illinois, Missouri, and New Jersey, for example:

- i. *Norcross v. Tishman Speyer Properties, L.P. et al.*, Case No. 23-cv-11153, S.D.N.Y. (Aug. 16, 2024 Final Judgment And Order Of Dismissal With Prejudice).
- ii. *Charles v. Color Factory, LLC*, Case No. 24-cv-00322, S.D.N.Y. (Nov. 7, 2024 Final Judgment And Order Of Dismissal With Prejudice).
- iii. *D'Amario v. The University of Tampa*, Case No. 20-cv-03744, S.D.N.Y. (Oct. 18, 2022 Final Judgment And Order Of Dismissal With Prejudice).
- iv. *Taylor v. Trusted Media Brands, Inc.*, Case No. 16-cv-01812, S.D.N.Y. (Feb. 1, 2018 Final Judgment And Order Of Dismissal With Prejudice), hearing transcript attached as **Exhibit 15**.
- v. In *Rodriguez v. CitiMortgage, Inc.*, Case No. 11-cv-4718, S.D.N.Y. (Oct. 6, 2015), the court concluded during the fairness hearing that Bursor & Fisher's rates for two of its partners, Joseph Marchese and Scott Bursor, were "reasonable."
- vi. *Moeller v. American Media, Inc.*, Case No. 16-cv-11367, E.D. Mich. (Sept. 28, 2017 Order And Judgment Of Dismissal With Prejudice).
- vii. *In re Haier Freezer Consumer Litig.*, Case No. C11-02911 EJD, N.D. Cal. (Oct. 25, 2013 Final Judgment And Order Granting Plaintiffs' Motion For Final Approval Of Class Action Settlement And For Award Of Attorneys' Fees, Costs And Incentive Awards).
- viii. *In re Michaels Stores Pin Pad Litigation*, Case No. 11-cv-03350, N.D. Ill. (Apr. 17, 2013 Order Approving Settlement)

- ix. *In re Blue Buffalo Company, Ltd. Marketing and Sales Practices Litigation*, Case No. 14-md-02562, E.D. Mo. (June 16, 2016 Order Awarding Fees And Costs).
- x. *Rossi v. The Procter & Gamble Co.*, Case No. 11-7238, D.N.J. (Oct. 3, 2013 Final Approval Order And Judgment);

30. No court has ever cut my firm’s fee application by a single dollar on the ground that our hourly rates were not reasonable.

31. Attached hereto as **Exhibit 16** is a current firm resume for Bursor & Fisher, P.A.

32. As aforementioned, my firm, Bursor & Fisher, P.A., has significant experience in litigating class actions of similar size, scope, and complexity to the instant action. (*See* Ex. 13; Firm Resume of Bursor & Fisher, P.A.). Indeed, my firm has brought several other cases on behalf of putative class members for violations of ACAL § 25.07(4). *See, e.g.*, cases cited at Paragraph 21, *supra*.

33. In addition, my firm has also been recognized by courts across the country, including this Court, for its expertise. (*See* Ex. 16); *see also Ebin v. Kangadis Food Inc.*, 297 F.R.D. 561, 566 (S.D.N.Y. Feb. 25, 2014) (Rakoff, J.) (“Bursor & Fisher, P.A., are class action lawyers who have experience litigating consumer claims. ... The firm has been appointed class counsel in dozens of cases in both federal and state courts, and has won multi-million dollar verdicts or recoveries in five class action jury trials since 2008.”)<sup>2</sup>; *In re Apple Data Privacy Litig.*, Case No. 5:22-cv-07069, ECF No. 104 (N.D. Cal. July 5, 2023) (appointing Bursor & Fisher, P.A. as co-lead Class Counsel in contested leadership application); *In re Sandisk SSDs Litig.*, 2023 WL 10367607, at \*1 (N.D. Cal. Dec. 4, 2023) (“Bursor & Fisher, however, has had significant experience representing certified classes (and representing putative classes as interim class counsel)” and appointing its attorneys co-lead counsel in contested leadership application).

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<sup>2</sup> Bursor & Fisher has since won a sixth jury verdict in *Perez v. Rash Curtis & Associates*, Case No. 4:16-cv-03396-YGR (N.D. Cal.), for \$267 million.

34. Moreover, my firm has served as trial counsel for class action Plaintiffs in six jury trials and has won all six, with recoveries ranging from \$21 million to \$299 million.

35. I am of the opinion that Mr. Jones' active involvement in this case was critical to its ultimate resolution. He took his role as class representative seriously, devoting time and effort to protecting the interests of the class. Without his willingness to assume the risks and responsibilities of serving as class representative, I do not believe such a strong result could have been achieved.

36. Mr. Jones equipped my firm with critical details regarding his experience with Defendant. He assisted my firm in investigating his claims, detailing his ticket purchase and the fees associated therewith, supplying supporting documentation, and aiding in drafting the Complaint. He was actively consulted during the settlement process.

37. In short, Mr. Jones assisted my firm in pursuing this action on behalf of the class, and his involvement in this case has been nothing short of essential.

I declare under penalty of perjury that the above and foregoing is true and accurate.

Executed this 29th day of January, 2025 at New York, New York.

/s Philip L. Fraietta  
Philip L. Fraietta

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TIM JONES, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

REGAL CINEMAS, INC.,

Defendant.

Civil Action No. 1:23-cv-11145-MMG

Hon. Margaret M. Garnett

**DECLARATION OF TIM JONES IN SUPPORT OF PLAINTIFF'S MOTION FOR  
FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND MOTION FOR  
ATTORNEYS' FEES, COSTS, EXPENSES, AND SERVICE AWARD**

I, Tim Jones, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am an adult over the age of 18 and a resident of the State of New York. I am the Class Representative in the lawsuit entitled *Tim Jones v. Regal Cinemas, Inc.*, Case No. 1:23-cv-11145-MMG, currently pending in the United States District Court for the Southern District of New York. I make this Declaration in support of (i) the Motion for Final Approval of Settlement, and (ii) the Motion for Attorneys' Fees, Costs, Expenses, and Service Award. The statements made in this Declaration are based on my personal knowledge and, if called as a witness, I could and would testify thereto.

2. On or about October 4, 2023, I purchased a ticket to see a movie at a theater operated by Defendant in New York, New York, using the "guest checkout" feature on Defendant's website, and was charged a \$1.89 booking fee in connection with that purchase, which I paid.

3. I assisted with the litigation of this case by detailing my ticket purchase and providing my lawyers with documentation confirming the same.

4. I also worked with my attorneys to prepare the Class Action Complaint. I carefully reviewed the Class Action Complaint for accuracy and approved it before it was filed.

5. During the course of this litigation, I kept in regular contact with my lawyers. Specifically, I conferred with them regularly by phone and e-mail to discuss the status of the case. We also discussed case strategy, anticipated motions, document and deposition discovery, and the prospects of settlement. Furthermore, when appropriate, I informed my attorneys of additional facts for their research and consideration.

6. I also coordinated with my lawyers to search for documents that Defendant was likely to request in formal discovery. I was also prepared to testify at deposition and trial, if necessary.

7. My lawyers have kept me well informed in regard to the efforts to resolve this matter, including the mediation. I discussed the Class Action Settlement Agreement with them and gave my approval prior to signing it.

8. Based on the interactions and my relationship with my attorneys, I believe they have fairly and adequately represented me and the Settlement Class and will continue to do so.

9. Throughout this litigation, I understood that, as a Class Representative, I have an obligation to protect the interests of other Settlement Class Members and not act just for my own personal benefit. I do not have any conflicts with other Settlement Class Members. I have done my best to protect the interests of other Settlement Class Members and will continue to fairly and adequately represent the Settlement Class to the best of my ability.

I declare under penalty of perjury that the above and foregoing is true and accurate.

Executed on January 21, 2025 at New York, New York.

*Timothy Jones*

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Tim Jones

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

TIM JONES, individually and on behalf of all  
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Plaintiff,

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REGAL CINEMAS, INC.,

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Hon. Margaret M. Garnett

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR  
ATTORNEYS' FEES, COSTS, EXPENSES, AND SERVICE AWARD**

Dated: January 29, 2025

**BURSOR & FISHER, P.A.**

Philip L. Fraietta  
1330 Avenue of the Americas, 32nd Floor  
New York, NY 10019  
Telephone: (646) 837-7150  
Facsimile: (212) 989-9163  
Email: pfraietta@bursor.com

Stefan Bogdanovich (*Pro Hac Vice*)  
1990 North California Boulevard, Suite 940  
Walnut Creek, CA 94596  
Telephone: (925) 300-4455  
Facsimile: (925) 407-2700  
Email: sbogdanovich@bursor.com

*Class Counsel*

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## INTRODUCTION

The class action settlement between Plaintiff Tim Jones (“Plaintiff”) and Defendant Regal Cinemas, Inc. (“Defendant”), if finally approved, resolves Plaintiff’s and the Class’s claims against Defendant under New York Arts & Cultural Affairs Law (“ACAL”) § 25.07(4). Defendant collected \$2,380,551.54 in allegedly unlawful Booking Fees during the class period. And the resulting Class Action Settlement (the “Settlement”) – preliminarily approved by this Court on November 20, 2024 – creates a \$2,500,000 non-reversionary cash Settlement Fund which will be used to pay all approved claims by class members, notice and administration expenses, a Court-approved service award to Plaintiff, and attorneys’ fees, costs, and expenses to Class Counsel. Each Settlement Class Member who submits a simple Claim Form will receive a *pro rata* cash payment as a percentage of the total Out-of-Pocket Fees he or she paid to Defendant during the class period. And, just as important, the proposed Settlement also provides meaningful prospective relief aimed at the challenged conduct. Shortly after the lawsuit was filed, Defendant changed the purchase flow for tickets to New York theaters on its Website in a manner that clearly and conspicuously discloses the total cost of the tickets, inclusive of Booking Fees, prior to the ticket being selected for purchase, and as part of the Settlement, agrees to maintain that flow.

Obtaining this exceptional relief came with significant risks. ACAL § 25.07(4) has never been litigated to judgment, and thus, the scope of the statute is in dispute. At the time of the settlement, Defendant’s motion to dismiss under Fed. R. Civ. P. 12(b)(1) was pending, with no binding precedent, and the existing case law was not uniformly in Plaintiff’s favor. Even if Plaintiff overcame that hurdle, he would still need to move for class certification, and likely have had to overcome a summary judgment motion, which would have re-raised issues of Article III standing, the voluntary payment doctrine, and the legality of the challenged fees considering

ACAL § 25.29. An adverse decision – whether on the motion to dismiss, class certification, summary judgment, or at a later stage of the case – could have resulted in the Settlement Class receiving nothing. Rather than put Defendant’s arguments to the test and risk everything, Plaintiff and Class Counsel sought the assistance of a well-respected former federal judge, The Honorable Shira A. Scheindlin (Ret.), negotiated meaningful relief for their fellow Class Members.

In light of this exceptional result, Plaintiff respectfully requests, pursuant to Federal Rule of Civil Procedure 23(h) and ACAL § 25.33, that the Court approve attorneys’ fees, costs, and expenses of one-third of the settlement fund, or \$833,333.33, as well as a service award of \$5,000 for Plaintiff for his service as class representative. Courts in this Circuit routinely approve fee requests for one-third of a settlement fund, including in similarly sized ACAL class action cases. *See, e.g., Norcross v. Tishman Speyer Properties, L.P.*, Case No. 1:23-cv-11153-JPO, ECF No. 36 at ¶ 14 (S.D.N.Y. Aug. 16, 2024) (awarding attorneys’ fees, costs, and expenses of one-third of the settlement fund in \$1,100,000 ACAL class action settlement); *Charles v. Color Factory, LLC*, Case No. 1:24-cv-00322-JSR, ECF No. 48 at ¶ 14 (awarding attorneys’ fees, costs, and expenses of one-third of the settlement fund in \$714,705.68 ACAL class action settlement); *Hayes v. Harmony Gold Min. Co.*, 2011 WL 6019219, at \*1 (S.D.N.Y. Dec. 2, 2011) (awarding “attorneys’ fees in the amount of one third” of a \$9 million settlement fund), *aff’d* 509 F. App’x 21, 23-24 (2d Cir. 2013) (affirming fee award, and noting that “the prospect of a percentage fee award from a common fund settlement, as here, aligns the interests of class counsel with those of the class”).

For these reasons, and as explained further below, this Court should approve the requested fee and service awards.

## **FACTUAL AND PROCEDURAL BACKGROUND**

A brief summary of ACAL § 25.07(4), the litigation performed by Class Counsel for the Settlement Class’s benefit, and the beneficial terms of the Settlement provide necessary context to the reasonableness of the requested fee and service awards.

### **A. ACAL § 25.07(4)**

Effective August 29, 2022, New York enacted Arts & Cultural Affairs Law § 25.07(4), which provides that:

Every operator or operator’s agent of a place of entertainment ... shall disclose the total cost of the ticket, inclusive of all ancillary fees that must be paid in order to purchase the ticket, and disclose in a clear and conspicuous manner the portion of the ticket price stated in dollars that represents a service charge, or any other fee or surcharge to the purchase. Such disclosure of the total cost and fees shall be displayed in the ticket listing prior to the ticket being selected for purchase. ... The price of the ticket shall not increase during the purchase process.

*Id.* (emphasis added).

The ACAL provides a private right of action to “any person who has been injured by reason of violation of” its provisions. ACAL § 25.33.

### **B. Plaintiff’s Allegations**

Defendant owns and operates movie theaters across the country, including in New York. *See* Complaint (ECF No. 1) (“Compl.”) ¶ 8. Plaintiff alleges that when consumers purchase movie tickets to a New York theater on Defendant’s Website, they are “quoted a fee-less price, only to be ambushed by a \$1.80 ‘booking fee’ at checkout after clicking through the various screens required to make a purchase.” *Id.* ¶ 1; *see also id.* ¶¶ 9-15 and Figures 1-7. Plaintiff alleges that this conduct violates ACAL § 25.07(4) because Defendant failed to “disclose the ‘total cost of a ticket, inclusive of all ancillary fees that must be paid in order to purchase the ticket’ after a ticket is selected,” and because Defendant “increase[ed] the price of their tickets

during the purchase process.” *Id.* ¶¶ 28-29. Plaintiff purchased a ticket to a New York theater on Defendant’s Website and was forced to pay Defendant’s Booking Fee. *Id.* ¶ 31.

**C. The Litigation And Work Performed To Benefit The Class**

Plaintiff filed this case on December 22, 2023. ECF No. 1. On February 16, 2024, Defendant responded to the Complaint with a pre-motion letter requesting permission to file a motion to dismiss, pursuant to Fed. R. Civ. P. 12(b)(1). ECF No. 9. Plaintiff opposed the letter on February 24, 2024. ECF No. 10. The Court conducted a pre-motion conference on March 13, 2024, at which it granted Defendant leave to file its motion to dismiss.

On April 12, 2024, Defendant filed its motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1). ECF No. 18. On May 13, 2024, Plaintiff opposed Defendant’s motion to dismiss (ECF No. 20) and on May 28, 2024, Defendant filed a reply in further support of the motion to dismiss. ECF No. 22.

From the outset of the case, the Parties engaged in settlement discussions and, to that end, agreed to participate in a private mediation with Judge Scheindlin. Declaration of Philip L. Fraietta In Support of Motion for Preliminary Approval (“Fraietta Decl.”) ¶ 7. As part of the mediation, the Parties exchanged informal discovery, including on issues such as the size and scope of the putative class, specifically the amount of Booking Fees Defendant collected during the relevant time period. *Id.* ¶ 8. Given that the information exchanged would have been, in large part, the same information produced in formal discovery related to issues of class certification and summary judgment, the Parties had sufficient information to assess the strengths and weaknesses of the claims and defenses. *Id.* ¶ 9. On September 30, 2024, the Parties conducted a full-day mediation before Judge Scheindlin. *Id.* ¶ 10. At the conclusion of the mediation, the Parties reached an agreement on all material terms of a class action settlement and executed a term sheet. *Id.* In the weeks following, a Settlement Administrator was engaged and

the Parties, in consultation with the Settlement Administrator on matters of notice and claims administration, negotiated the full-form Settlement. Fraietta Decl. ¶ 11 and Ex. 1. The Court preliminarily approved the Settlement on November 20, 2024. ECF No. 32.

### **SUMMARY OF THE SETTLEMENT**

The Settlement provides an exceptional result for the class by delivering cash to approximately 565,992 individuals who purchased electronic tickets to any film screening in any of Defendant's cinemas located in New York state from Defendant's Website from July 31, 2023, to and through July 15, 2024, using the guest checkout process. Fraietta Decl. ¶ 12. The Settlement creates a \$2,500,000 non-reversionary cash Settlement Fund, from which each Settlement Class Member who submits a simple Claim Form will receive a *pro rata* cash payment as a percentage of the total amount of fees he or she paid to Defendant during the class period. Settlement ¶¶ 1.38, 1.40, 2.1(b). In connection with the Settlement, Defendant agrees to maintain the purchase flow for tickets to New York theaters on its Website in a manner that clearly and conspicuously discloses the total cost of the tickets, inclusive of Booking Fees, prior to the ticket being selected for purchase, unless and until ACAL § 25.07(4) is amended, repealed, or otherwise invalidated. *Id.* ¶ 2.2.

### **ARGUMENT**

#### **I. THE REQUESTED ATTORNEYS' FEES ARE REASONABLE AND SHOULD BE APPROVED**

The requested fee award of \$833,333.33, representing one-third of the Settlement Fund, is reasonable and merits approval. Under Federal Rule of Civil Procedure 23(h), courts may award "reasonable attorney's fees and nontaxable costs that are authorized by law or the parties' agreement." Fed. R. Civ. P. 23(h). The ACAL provides for the same. *See* ACAL § 25.33.

Here, the Settlement Agreement between the Parties provides that Class Counsel may petition

the Court for an award up to one-third of the Settlement Fund. Agreement ¶ 8.1.<sup>1</sup>

In settlement fund cases such as this one, courts in the Second Circuit apply one of two fee calculation methods – the “percentage of the fund” method or the “lodestar” method. *See Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43, 50 (2d Cir. 2000). The Court has discretion in choosing which method to employ. *See McDaniel v. County of Schenectady*, 595 F.3d 411, 419 (2d Cir. 2010) (holding that “the decision as to the appropriate method [is left] to ‘the district court, which is intimately familiar with the nuances of the case’”) (quoting *Goldberger*, 209 F.3d at 48). “[T]he trend in this Circuit has been toward the use of a percentage of recovery as the preferred method of calculating the award for class counsel in common fund cases.” *In re Beacon Assocs. Litig.*, 2013 WL 2450960, at \*5 (S.D.N.Y. May 9, 2013). In fact, the “trend” of using the percentage of the fund method to compensate class counsel is now “firmly entrenched in the jurisprudence of this Circuit.” *In re Citigroup Inc. Sec. Litig.*, 965 F. Supp. 2d 369, 388 (S.D.N.Y. 2013). As the Second Circuit has stated, the percentage method “directly aligns the interests of the class and its counsel and provides a powerful incentive for the efficient prosecution and early resolution of litigation.” *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 121 (2d Cir. 2005). “In contrast, the ‘lodestar create[s] an unanticipated disincentive to early settlements, tempt[s] lawyers to run up their hours, and compel[s] district courts to engage in gimlet-eyed review of line-item fee audits.’” *Id.* (quoting *Baffa v. Donaldson*

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<sup>1</sup> The requested fee award also encompasses unreimbursed litigation costs and expenses. Agreement ¶ 8.1. Reasonable litigation-related costs and expenses are customarily awarded in class action cases and include costs such as filing fees, process server fees, and courier fees. *See, e.g., Yuzary v. HSBC Bank USA, N.A.*, 2013 WL 5492998, at \*11 (S.D.N.Y. Oct. 2, 2013) (“Class Counsel’s unreimbursed expenses, including court and process server fees, postage and courier fees, transportation, working meals, photocopies, electronic research, expert fees, and Plaintiffs’ share of the mediator’s fees, are reasonable and were incidental and necessary to the representation of the class.”). Thus, included in the requested fee award, Class Counsel respectfully seeks reimbursement of \$8,663.39 for out-of-pocket costs and expenses in these standard categories. *See Fraietta Decl.* ¶ 25, Ex. 3.

*Lufkin & Jenrette Secs. Corp.*, 2002 WL 1315603, at \*1 (S.D.N.Y. June 17, 2002)). Indeed, the Second Circuit has described difficulties with the lodestar method:

As so often happens with simple nostrums, experience with the lodestar method proved vexing. Our district courts found it created a temptation for lawyers to run up the number of hours for which they could be paid. For the same reason, the lodestar created an unanticipated disincentive to early settlements. But the primary source of dissatisfaction was that it resurrected the ghost of Ebenezer Scrooge, compelling district courts to engage in a gimlet-eyed review of line-item fee audits. There was an inevitable waste of judicial resources.

*Goldberger*, 209 F.3d at 48-49. As a result, “courts in the Second Circuit no longer use the ‘lodestar’ method for computing attorneys’ fees” in fee-shifting cases. *GB ex rel NB v. Tuxedo Union Free School Dist.*, 894 F. Supp. 2d 415, 427 (S.D.N.Y. 2012) (citing *Arbor Hill Concerned Citizens Neighborhood Assn v. County of Albany*, 522 F.3d 182 (2d Cir. 2008)).

Moreover, Courts in this Circuit routinely approve fee requests for one-third of a settlement fund. *See Hayes v. Harmony Gold Min. Co.*, 2011 WL 6019219, at \*1 (S.D.N.Y. Dec. 2, 2011) (awarding “attorneys’ fees in the amount of one third” of a \$9 million settlement fund), *aff’d* 509 F. App’x 21, 23-24 (2d Cir. 2013) (affirming fee award, and noting that “the prospect of a percentage fee award from a common fund settlement, as here, aligns the interests of class counsel with those of the class”); *Gruber v. Gilbertson*, 647 F. Supp. 3d 100, 127 (S.D.N.Y. 2022) (Rakoff, J.) (awarding one-third of \$4.649 million settlement fund); *Silverstein v. AllianceBernstein, L.P.*, 2013 WL 7122612, at \*9 (S.D.N.Y. Dec. 20, 2013) (awarding one-third of \$2.98 million settlement fund and noting that one-third is “consistent with the norms of class litigation in this circuit”); *In re Initial Public Offering Secs. Litig.*, 671 F. Supp. 2d 467, 516 (S.D.N.Y.2009) (awarding one-third of the \$510 million net settlement fund); *City of Providence v. Aeropostale, Inc.*, 2014 WL 1883494, at \*20 (S.D.N.Y. May 9, 2014) (awarding 33% of \$15 million settlement fund); *Khait v. Whirlpool Corp.*, 2010 WL 2025106, at \*8

(E.D.N.Y. Jan. 20, 2010) (awarding 33% of \$9.25 million settlement fund); *Willix v. Healthfirst, Inc.*, 2011 WL 754862, at \*6–7 (E.D.N.Y. Feb. 18, 2011) (awarding one-third of \$7.675 million settlement fund); *Clark v. Ecolab, Inc.*, 2010 WL 1948198, at \*8–9 (S.D.N.Y. May 11, 2010) (awarding one-third of \$6 million settlement fund); Fraietta Decl., Ex. 15 (*Taylor v. Trusted Media Brands, Inc.*, Case No. 16-cv-01812-KMK Hearing Tr. at 17:21-22, (S.D.N.Y. Feb. 1, 2018)) (“*TMBI* Hearing Tr.”) (“As I said, it’s one-third. That’s typically approved by other courts.”). Indeed, as courts in this Circuit have noted, fee requests for one-third of common funds represent what “reasonable, paying client[s] ... typically pay ... of their recoveries under private retainer agreements.” *Reyes v. Altamarea Grp.*, 2011 WL 4599822, at \*8 (S.D.N.Y. Aug. 16, 2011) (citing *Arbor Hill*, 522 F.3d 182); *see also Silverstein*, 2013 WL 7122612, at \*9 (same).

#### **A. The Percentage Method Should Be Used To Calculate Fees**

As mentioned *supra*, the “trend in this Circuit has been toward the use of a percentage of recovery as the preferred method of calculating the award for class counsel in common fund cases.” *In re Beacon Assocs. Litig.*, 2013 WL 2450960, at \*5 (S.D.N.Y. May 9, 2013). Indeed, the percentage method was used to calculate fees in the only other ACAL class action settlements to reach the final approval stage to date. *See Norcross*, Case No. 1:23-cv-11153-JPO, ECF No. 36 at ¶ 14 (awarding attorneys’ fees, costs, and expenses of one-third of the settlement fund in ACAL class action settlement); *Charles*, Case No. 1:24-cv-00322-JSR, ECF No. 48 at ¶ 14 (same). In contrast, the lodestar approach is more often applied in federal fee-shifting cases, particularly civil rights actions. *See, e.g., Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 551 (2010). As Judge Cote has stated, the percentage method is preferred for several reasons:

First, it relieves the court of the cumbersome, enervating, and often surrealistic process of evaluating fee petitions. Second, it

decreases plaintiff lawyers' incentive to run up the number of billable hours for which they would be compensated by the lodestar method. And finally, it decreases the incentive to delay settlement because the fee for the plaintiffs' attorneys does not increase with delay.

*Varljen v. H.J. Meyers & Co., Inc.*, 2000 WL 1683656, at \*5 (S.D.N.Y. Nov. 8, 2000) (internal citations omitted); *see also In re EVCI Career Colleges Holding Corp. Sec. Litig.*, 2007 WL 2230177, at \*16 (S.D.N.Y. July 27, 2007) (“From a public policy perspective, the percentage method is the most efficient means of compensating the work of class action attorneys. It does not waste judicial resources analyzing thousands of hours of work, where counsel obtained a superior result.”).

Under the circumstances of this case – wherein Class Counsel received an exceptional result for the Settlement Class – the Second Circuit prefers the percentage method. *See Wal-Mart Stores, Inc.*, 396 F.3d at 121 (noting that the percentage method “directly aligns the interests of the class and its counsel and provides a powerful incentive for the efficient prosecution and early resolution of litigation”). In contrast, “the lodestar create[s] an unanticipated disincentive to early settlements, tempt[s] lawyers to run up their hours, and compel[s] district courts to engage in gimlet-eyed review of line-item fee audits.” *Id.* at 121 (quotation omitted).

**B. The Reasonableness Of The Requested Fees Is Supported By This Circuit’s Six-Factor *Goldberger* Test**

The Second Circuit has articulated six factors that should be considered when determining the reasonableness of a requested percentage to award as attorneys’ fees: “(1) the time and labor expended by counsel; (2) the magnitude and complexities of the litigation; (3) the risk of the litigation...; (4) the quality of representation; (5) the requested fee in relation to the settlement; and (6) public policy considerations.” *Goldberger*, 209 F.3d at 50. These factors support Class Counsel’s fee request.

## 1. Time And Labor Expended By Counsel

Class Counsel first began working on this case by investigating potential violations of the newly-enacted ACAL § 25.07(4). *See* Fraietta Decl. ¶ 3. The theory of liability was novel. No case had ever been brought under ACAL § 25.07(4), nor had any court issued an opinion interpreting the statute. *Id.* Thus, Class Counsel’s investigation was extensive and involved in-depth research into the legislative history of ACAL § 25.07(4), issues pertaining to statutory interpretation under New York law, as well as factual research regarding Defendant’s Website and implementation of booking fees. *Id.* Class Counsel also spoke with interested potential class members, drafted the Complaint, briefed a motion to dismiss and a motion to stay discovery, conducted formal and informal discovery, and engaged in numerous conferences to discuss settlement. *Id.* ¶¶ 3-9. And because of the novelty of ACAL § 25.07(4), almost all of this work was done *de novo*.

Class Counsel expended considerable time and labor on the settlement process as well. First, Class Counsel analyzed the informal discovery produced by Defendant prior to making any settlement demand. *Id.* ¶¶ 6-7. Then, Class Counsel engaged Judge Scheindlin, prepared a detailed mediation brief, participated in a full-day mediation, and negotiated the instant Settlement. *Id.* ¶ 8.

Thus, the work performed by Class Counsel to date has been comprehensive and wide ranging. This factor supports the requested fee award.

## 2. Magnitude And Complexity Of The Litigation

“[C]lass actions have a well deserved reputation as being most complex.” *In re Nasdaq Market-Makers Antitrust Litig.*, 187 F.R.D. 465, 477 (S.D.N.Y. 1998) (internal citation and quotations omitted). This case was no exception, particularly because of its novelty. This case involved a statute – ACAL § 25.07(4) – that has never been litigated before. First, Plaintiff had

to overcome a motion to dismiss arguing that he lacked standing. *See* Fraietta Decl. ¶ 5 (citing ECF No. 23). Then Plaintiff would have to conduct discovery and move for class certification. *Id.* ¶¶ 7-10. And even if that motion was granted, he would have faced a summary judgment motion arguing, among other things: (i) Plaintiff’s lack of standing; (ii) ACAL § 25.07(4) does not apply to movie theaters; (iii) Plaintiff’s claims are barred by the voluntary payment doctrine; and (iv) Defendant’s fees are permitted under ACAL § 25.29, and therefore are not unlawful as Plaintiff alleged. *Id.* ¶ 17. Thus, because this case involved novel and complex legal questions under ACAL § 25.07(4), the magnitude and complexity of the litigation further supports the requested fee award.

### 3. The Risk Of Litigation

This factor recognizes the risk of non-payment in cases prosecuted on a contingency basis where claims are not successful, which can justify higher fees. *See, e.g., In re Marsh ERISA Litig.*, 265 F.R.D. 128, 148 (S.D.N.Y. 2010) (“There was significant risk of non-payment in this case, and Plaintiffs’ Counsel should be rewarded for having borne and successfully overcome that risk.”); *In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 592 (S.D.N.Y. 2008) (noting risk of non-payment in cases brought on contingency basis). “It is well settled that class actions are notoriously complex and difficult to litigate.” *Shapiro v. JPMorgan Chase 7 Co.*, 2014 WL 1224666, at \*21 (S.D.N.Y. Mar. 24, 2014) (internal citation omitted).

“The risks of litigation for Plaintiffs, furthermore, are substantial, as the case involved novel legal issues.” *In re Am. Int’l Grp., Inc. Sec. Litig.*, 2013 WL 12324362, at \*4 (S.D.N.Y. Apr. 10, 2013). Class Counsel took this case on contingency under a statute and legal theory that no other lawyer had pursued. When Plaintiff embarked on this litigation, he faced a barren desert of precedent. No court had interpreted ACAL § 25.07(4), and Class Counsel needed to shadowbox and imagine what Defendant’s arguments may be prior to filing the action. Even

now, ACAL § 25.07(4) has not yet been interpreted by any binding authority. Simply put, success on the legal issues presented by this case was far from certain. Fraietta Decl. ¶ 15. Indeed, Class Counsel faced the palpable risk that the Court would have found, at summary judgment, that Plaintiff lacked standing, that his claim was barred by the voluntary payment doctrine, or that the fees at issue were authorized by ACAL § 25.29. *Id.*; see also *Curanaj v. Tao Group, Inc.*, Index No. 56152/2024, NYSCEF No. 36 (Sup. Ct. Westchester Cnty. July 25, 2024) (granting motion to dismiss ACAL § 25.07(4) case on similar arguments); *Frias v. City Winery New York, LLC*, Index No. 651284/2024, NYSCEF No. 31 (Sup. Ct. New York Cnty. June 17, 2024) (same). This risk was exacerbated by the fact that Defendant retained highly qualified defense counsel who presented well-argued defenses in motion papers and in conferences with the Court and Class Counsel. Fraietta Decl. ¶ 17. Nonetheless, Class Counsel embarked on an investigation of Defendant's practices, engaged in motion practice and discovery, and participated in weeks of discussions with the defense counsel to try and resolve the action. *Id.* ¶¶ 3-9. Class Counsel fronted this investment of time and resources, despite the significant risk of nonpayment inherent in this case. *Id.*

The fact that Class Counsel undertook this representation, despite the significant risk of nonpayment, supports the requested fee award.

#### **4. The Quality Of Representation**

Class action litigation presents unique challenges and – by achieving a meaningful settlement over purported violations of an untested statute – Class Counsel proved that they have the ability and resources to litigate this case zealously and effectively. Indeed, Class Counsel negotiated a Settlement Fund that equals the amount of allegedly unlawful fees Defendant collected, without jeopardizing the Settlement Class's recovery.

In addition, Class Counsel are well-respected attorneys with significant experience

litigating consumer class actions of similar size, scope, and complexity. Fraietta Decl. ¶¶ 30-31. Indeed, Class Counsel has been recognized by courts across the country, including this Court, for its expertise. *See* Firm Resume, Fraietta Decl. Ex. 16; *see also Ebin v. Kangadis Food Inc.*, 297 F.R.D. 561, 566 (S.D.N.Y. Feb. 25, 2014) (Rakoff, J.) (“Bursor & Fisher, P.A., are class action lawyers who have experience litigating consumer claims. ... The firm has been appointed class counsel in dozens of cases in both federal and state courts, and has won multi-million dollar verdicts or recoveries in five<sup>2</sup> class action jury trials since 2008.”); *In re Apple Data Privacy Litig.*, Case No. 5:22-cv-07069, ECF No. 104 (N.D. Cal. July 5, 2023) (appointing Bursor & Fisher, P.A. as co-lead Class Counsel in contested leadership application); *In re Sandisk SSDs Litig.*, 2023 WL 10367607, at \*1 (N.D. Cal. Dec. 4, 2023) (“Bursor & Fisher, however, has had significant experience representing certified classes (and representing putative classes as interim class counsel)” and appointing its attorneys co-lead counsel in contested leadership application).

Furthermore, “[t]he quality of the opposition should be taken into consideration in assessing the quality of the plaintiffs’ counsel’s performance.” *In re MetLife Demutualization Litig.*, 689 F. Supp. 2d 297, 362 (E.D.N.Y. 2010). Class Counsel achieved an exceptional result in this case while facing well-resourced and experienced defense counsel. *See Marsh ERISA Litig.*, 265 F.R.D. at 148 (“The high quality of defense counsel opposing Plaintiffs’ efforts further proves the caliber of representation that was necessary to achieve the Settlement.”).

Class Counsel litigated this case efficiently, effectively, and civilly. The excellent result is a function of the high quality of that work, which supports the requested fee award.

### **5. The Requested Fee In Relation To The Settlement**

Class Counsel seeks fees, costs, and expenses totaling one-third of the \$2,500,000

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<sup>2</sup> Bursor & Fisher has since won a sixth jury verdict in *Perez v. Rash Curtis & Associates*, Case No. 4:16-cv-03396-YGR (N.D. Cal.), for \$267 million.

settlement fund. As mentioned above, courts in this Circuit routinely approve fee requests for one-third of a common fund. *See* cases cited in Argument § I, *supra*.

## 6. Public Policy Considerations

The final *Goldberger* factor is public policy. “Skilled counsel must be incentivized to pursue complex and risky claims [that protect the public on a contingency basis].” *Shapiro*, 2014 WL 1224666, at \*24. As such, reasonable fee awards must be provided in order to ensure that attorneys are incentivized to litigate class actions, which serve as private enforcement tools to police defendants who engage in misconduct. *See id.* “Attorneys who fill the private attorney general role must be adequately compensated for their efforts,” otherwise the public risks an absence of a “remedy because attorneys would be unwilling to take on the risk.” *Massiah v. MetroPlus Health Plan, Inc.*, 2012 WL 5874655, at \*7 (E.D.N.Y. Nov. 20, 2012) (citing *Goldberger*, 209 F.3d at 51). Further, when individual class members seek a relatively small amount of damages, “economic reality dictates that [their] suit proceed as a class action or not at all.” *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 161 (1974).

Society undoubtedly has a strong interest in incentivizing lawyers to bring complex litigation under ACAL § 25.07(4). Class action litigation is the most realistic means of safeguarding the interests of consumers against small ticketing fees. In fact, ACAL § 25.07(4) had never been enforced before this case was filed. Thus, the alternative to a class action in this case would have been no enforcement at all, and Defendant’s allegedly unlawful conduct would have continued unabated. This factor thus supports the requested fee award.

## C. The Requested Attorneys’ Fees Are Also Reasonable Under An Optional Lodestar Cross-Check

An optional lodestar cross-check further supports the requested fee. Courts applying the lodestar method generally apply a multiplier to take into account the contingent nature of the fee, the risks of non-payment, the quality of representation, and the results achieved. *See Wal-Mart*

*Stores, Inc.*, 396 F.3d at 121. Where the lodestar is “used as a mere cross-check, the hours documented by counsel need not be exhaustively scrutinized by the district court.” *Goldberger*, 209 F.3d at 50; *see also Cassese v. Williams*, 503 F. App’x 55, 59 (2d Cir. 2012) (noting the “need for exact [billing] records [is] not imperative” where the lodestar is used as a “mere cross-check”).

To calculate lodestar, counsel’s reasonable hours expended on the litigation are multiplied by counsel’s reasonable rates. *See Pennsylvania v. Del. Valley Citizens’ Council for Clean Air*, 478 U.S. 546, 565 (1986); *Blum v. Stenson*, 465 U.S. 886, 897 (1984); *Parker v. Time Warner Entertainment Co., L.P.*, 631 F. Supp. 2d 242, 264 (E.D.N.Y. 2009). The resulting figure may be adjusted at the court’s discretion by a multiplier, taking into account various equitable factors. *See Parker*, 631 F. Supp. 2d at 264; *Shapiro*, 2014 WL 1224666, at \*24 (“Additionally, under the lodestar method, a positive multiplier is typically applied to the lodestar in recognition of the risk of litigation, the complexity of the issues, the contingent nature of the engagement, the skill of the attorneys, and other factors.”) (internal quotations and citations omitted); *Milstein v. Huck*, 600 F. Supp. 254, 257 (E.D.N.Y. 1984) (“An increase in a fee award is appropriate in situations, such as this one, where an action is prosecuted solely on a contingent fee basis and counsel, faced with a large case containing complex and novel legal issues, successfully recovers a substantial benefit to the class.”).

The hourly billing rate to be applied is the hourly rate that is normally charged in the community where the counsel practices, *i.e.*, the “market rate.” *See Blum*, 465 U.S. at 895; *see also Luciano v. Olsten Corp.*, 109 F.3d 111, 115-116 (2d Cir. 1997) (“The ‘lodestar’ figure should be ‘in line with those [rates] prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation’”) (alteration in original and citation omitted). Here, the hourly rates used by Class Counsel are reasonable compared to rates charged

by attorneys with similar experience, skill, and reputation, for similar services in the New York legal market. *See* Fraietta Decl. ¶¶ 27-34<sup>3</sup>

The hours worked, lodestar fee, and expenses for Class Counsel are set forth in the declaration of Mr. Fraietta, submitted herewith. In total, through January 14, 2025, Class Counsel billed 153.9 hours, which at their hourly rates amounts to a lodestar of \$116,985. Fraietta Decl. ¶¶ 22-23; Ex. 2. Counsel also incurred \$8,487.02 in expenses. *Id.* ¶ 25; Ex. 3. Therefore, the requested fee award reflects an approximately 7 times multiplier on Class Counsel’s regular hourly rates, which is well within the range of reasonableness under the circumstances of this case. *See Tishman Speyer Properties, L.P.*, Case No. 1:23-cv-11153-JPO, ECF No. 36 at ¶ 14 (S.D.N.Y. Aug. 16, 2024) (awarding multiplier of 8.12 in ACAL §25.07(4) case); *Yuzary v. HSBC Bank USA, N.A.*, 2013 WL 5492998, at \* 11 (S.D.N.Y. Oct. 2, 2013) (approving 7.6 lodestar multiplier); *Beckman v. KeyBank N.A.*, 293 F.R.D. 467, 483 (S.D.N.Y. 2013) (approving 6.3 lodestar multiplier); *TMBI Hearing Tr.* at 18:4-12 (approving 11.7 times multiplier); *In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 590 (S.D.N.Y. 2008) (McMahon, J.) (“In contingent litigation, lodestar multiples of over 4 are routinely awarded by courts, including this Court.”). As *Beckman* notes: “Courts regularly award lodestar multipliers of up to eight times the lodestar, and in some cases, even higher multipliers.” 293 F.R.D. at 481 (collecting cases).

This case settled early in the litigation before a decision on Defendant’s motion to dismiss. But a higher multiplier “should not result in penalizing plaintiffs’ counsel for achieving

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<sup>3</sup> The Supreme Court and other courts have held that the use of current rates is proper since such rates compensate for inflation and the loss of use of funds. *See Missouri v. Jenkins*, 491 U.S. 274, 283-84 (1989) (recognizing “an appropriate adjustment for delay in payment—whether by the application of current rather than historic hourly rates or otherwise”); *LeBlanc-Sternberg v. Fletcher*, 143 F. 3d 748, 764 (2d Cir. 1998) (“The lodestar should be based on ‘prevailing market rates’ ... and current rates, rather than historical rates, should be applied in order to compensate for the delay in payment.”) (citation omitted).

an early settlement, particularly where, as here, the settlement amount was substantial.” *Beckman*, 293 F.R.D. at 482; *see also Hyun v. Ippudo USA Holdings*, 2016 WL 1222347, at \*3 (S.D.N.Y. Mar. 24, 2016) (“In this case, where the parties were able to settle relatively early and before any depositions occurred ... the Court finds that the percentage method, which avoids the lodestar method’s potential to ‘create a disincentive to early settlement’ ... is appropriate.”) (citing *McDaniel*, 595 F.3d at 418). Class Counsel took this case on contingency under a statute and legal theory that no other lawyer had pursued. Class Counsel recognized that a substantial settlement could be achieved and pursued it accordingly. And Class Counsel succeeded, having negotiated a Settlement Fund that exceeds the actual damages potentially available for the Settlement Class. The alternative to settlement would have been needless litigation which would burden the Court and jeopardize the Settlement Class’s recovery. Cases like this are exactly why the Second Circuit has moved away from the lodestar method more than two decades ago. *See, e.g., Savoie v. Merchants Bank*, 166 F.3d 456, 461 (2d Cir.1999) (“[T]he percentage-of-the-fund method also removes disincentives to prompt settlement, because plaintiffs’ counsel, whose fee does not increase with delay, have no reason to drag their feet.”). This Court should do the same. *See, e.g., Guippone v. BHS & B Holdings, LLC*, 2011 WL 5148650, at \*8-9 (S.D.N.Y. Oct. 28, 2011) (approving one-third fee without performing a lodestar cross-check); *Gilliam v. Addicts Rehabilitation Center Fund*, 2008 WL 782596, at \*5 (S.D.N.Y. Mar. 24, 2008) (same).

Class Counsel also leanly staffed this case. And because Class Counsel filed several other cases under this same statute, the issues have been fresh in their minds, and enabled them to prosecute this case much more efficiently. As such, the lodestar cross-check inherently penalizes them for knowing the issues and not billing to re-learn the issues on each case.

In sum, Class Counsel’s efforts in this case resulted in an exceptional recovery for the Settlement Class. Class Counsel should be rewarded for achieving this result.

## II. THE REQUESTED SERVICE AWARD REFLECTS PLAINTIFF'S ACTIVE INVOLVEMENT IN THIS ACTION AND SHOULD BE APPROVED

“Incentive awards encourage class representatives to participate in class action lawsuits, which are designed to provide a mechanism by which persons, whose injuries are not large enough to make pursuing their individual claims in the court system cost efficient, are able to bind together with persons suffering the same harm and seek redress for their injuries.” *Moses v. New York Times Co.*, 79 F.4th 235, 253 (2d Cir. 2023). “Such incentive awards often level the playing field and treat differently situated class representatives equitably relative to the class members who simply sit back until they are alerted to a settlement.” *Id.*

Here, Plaintiff's participation was critical to the ultimate success of the case. *See Fraietta Decl.* ¶¶ 33-35. Plaintiff assisted Class Counsel in investigating this action by detailing his ticket purchase, supplying supporting documentation, and aiding in drafting the Complaint. *See Declaration of Tim Jones In Support of Plaintiff's Motion for Final Approval of Class Action Settlement and Motion for Attorneys' Fees, Costs, Expenses, and Service Award (“Jones Decl.”)* ¶¶ 3-6. During the course of this litigation, Plaintiff kept in regular contact with his lawyers to receive updates on the progress of the case and to discuss strategy. Finally, Plaintiff was actively consulted during the settlement process. *Id.* ¶ 7.

On these facts, the \$5,000 service award is fair and reasonable. The requested \$5,000 is well within the range of service awards approved by other courts in this Circuit. *See, e.g., Norcross*, Case No. 1:23-cv-11153-JPO, ECF No. 36 at ¶ 15 (awarding \$5,000 service payment in ACAL class action settlement); *Charles*, Case No. 1:24-cv-00322-JSR, ECF No. 48 at ¶ 15 (same); *deMunecas v. Bold Food, LLC*, 2010 WL 3322580, at \*10 (S.D.N.Y. Aug. 23, 2010) (awarding \$5,000 service payments to class representatives from \$800,000 fund); *McMahon v. Olivier Cheng Catering and Events, LLC*, 2010 WL 2399328, at \*8-9 (S.D.N.Y. Mar. 3, 2010) (awarding \$5,000 service payments to two class representatives from \$400,000 fund);

*Dornberger v. Metro. Life Ins. Co.*, 203 F.R.D. 118, 125 (S.D.N.Y. 2001) (noting case law supports payments of between \$2,500 and \$85,000).

**CONCLUSION**

For the foregoing reasons, Plaintiff respectfully requests that the Court (1) approve attorneys' fees, costs, and expenses in the amount of one-third of the settlement fund, or \$833,333.33, (2) grant Plaintiff a service award of \$5,000 in recognition of his efforts on behalf of the Settlement Class, and (3) award such other and further relief as the Court deems reasonable and just.

Dated: January 29, 2025

Respectfully submitted,

By:           /s/ Philip L. Fraietta            
Philip L. Fraietta

**BURSOR & FISHER, P.A.**

Philip L. Fraietta  
1330 Avenue of the Americas, 32nd Floor  
New York, NY 10019  
Telephone: (646) 837-7150  
Facsimile: (212) 989-9163  
Email: pfraietta@bursor.com

Stefan Bogdanovich (*Pro Hac Vice*)  
1990 North California Boulevard, Suite 940  
Walnut Creek, CA 94596  
Telephone: (925) 300-4455  
Facsimile: (925) 407-2700  
Email: sbogdanovich@bursor.com

*Class Counsel*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

TIM JONES, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

REGAL CINEMAS, INC.,

Defendant.

Civil Action No. 1:23-cv-11145-  
MMG

Hon. Margaret M. Garnett

**NOTICE OF MOTION FOR ATTORNEYS' FEES, COSTS, EXPENSES,  
AND SERVICE AWARD**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on March 5, 2025 at 9:30 a.m. before the Honorable Margaret M. Garnett, United States District Judge for the Southern District of New York, at the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York, Plaintiff Tim Jones ("Plaintiff"), by and through Class Counsel, will move and hereby does move for an order (1) approving the payment of attorneys' fees, costs, and expenses in the amount of one-third of the settlement fund, (2) granting Plaintiff a service award of \$5,000 in recognition of his efforts on behalf of the class, and (3) awarding such other and further relief as the Court deems reasonable and just.

**PLEASE TAKE FURTHER NOTICE** that, in support of the motion, Plaintiff will rely upon the accompanying memorandum of law in support, the Declaration of Tim Jones, and the Declaration of Philip L. Fraietta, with annexed exhibits.

Dated: January 29, 2025

Respectfully submitted,

By: /s/ Philip L. Fraietta  
Philip L. Fraietta

**BURSOR & FISHER, P.A.**

Philip L. Fraietta  
1330 Avenue of the Americas, 32nd Floor  
New York, NY 10019  
Telephone: (646) 837-7150  
Facsimile: (212) 989-9163  
Email: pfraietta@bursor.com

Stefan Bogdanovich (*pro hac vice*)  
1990 North California Blvd., Suite 940  
Walnut Creek, CA 94596  
Telephone: (925) 300-4455  
Facsimile: (925) 407-2700  
E-mail: sbogdanovich@bursor.com

*Class Counsel*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

TIM JONES, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

REGAL CINEMAS, INC.,

Defendant.

Civil Action No. 23-cv-11145-MMG

**CLASS ACTION SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement” or “Settlement Agreement”) is entered into by and among: (i) Plaintiff Tim Jones (“Plaintiff”); (ii) each and every member of the Settlement Class (as defined herein); and (iii) Defendant Regal Cinemas, Inc. (“Defendant”). The Settlement Class and Plaintiff are collectively referred to as the “Plaintiffs” unless otherwise noted. The Plaintiff and the Defendant are collectively referred to herein as the “Parties.” This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined herein), upon and subject to the terms and conditions of this Agreement, and subject to the final approval of the Court.

**RECITALS**

A. On December 22, 2023, Plaintiff filed a putative class action in the United States District Court for the Southern District of New York. The material allegations of the Complaint center on Defendant’s alleged failure to disclose a “booking fee” for online purchase of tickets to its movie theaters in New York state (“Booking Fee”) at the first time that the purchaser saw the purchase price of the tickets, in alleged violation of New York Arts and Cultural Affairs Law (“ACAL”) § 25.07(4).

B. On February 16, 2024, Defendant responded to the Complaint with a pre-motion letter requesting permission to file a motion to dismiss, pursuant to Fed. R. Civ. P. 12(b)(1) (ECF No. 9). Plaintiff opposed the letter on February 23, 2024 (ECF No. 10) and the Court conducted a conference on March 13, 2024, at which it granted Defendant leave to file its motion to dismiss.

C. On April 12, 2024, Defendant filed its motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) (ECF No. 18). Plaintiff filed his Opposition on May 13, 2024 (ECF No. 20), and Defendant filed its reply on May 28, 2024 (ECF No. 22).

D. From the outset of the case, the Parties engaged in settlement discussions pursuant to their obligations under Fed. R. Civ. P. 26 and, to that end, agreed to participate in a private mediation on September 30, 2024 with the Honorable Shira A. Scheindlin (Ret.), formerly of the Southern District of New York. Notably, Defendant changed the purchase flow for its online platforms as of July 16, 2024.

E. In preparation for the mediation, the Parties jointly requested that the Court stay the Action, including consideration of the pending motion to dismiss to preserve the status quo for mediation, and the Court granted that request on July 23, 2024 (ECF No. 25).

F. Additionally, prior to the mediation, the Parties exchanged informal discovery, including on issues such as the size and scope of the putative class, specifically the amount of Booking Fees Defendant collected during the relevant time period. Given that the information exchanged would have been, in large part, the same information that would have been produced in formal discovery related to issues of class certification and summary judgment, the Parties had sufficient information to assess the strengths and weaknesses of their respective claims and defenses.

G. On September 30, 2024, the Parties conducted a full-day mediation before Judge Scheindlin. At the conclusion of the mediation, the Parties reached an agreement on all material terms of a class action settlement and executed a term sheet the next day.

H. Defendant believes that the claims asserted against it in the above-captioned action (the “Action”) have no merit and that it would have prevailed on a motion to dismiss, at summary judgment, and/or at trial, and that Plaintiff would not have been able to certify a class under the requirements of Federal Rule of Civil Procedure 23. Defendant has denied and continues to deny any wrongdoing, liability, or fault and has denied and continues to deny that it committed, or attempted to commit, any wrongful act or violation of law or duty alleged in the Action. Defendant has opposed and continues to oppose certification of a litigation class in this Action. Nonetheless, taking into account the uncertainty, costs and expense, and risks inherent in any litigation, Defendant has concluded it is desirable and beneficial that the Action be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Agreement. This Agreement is a compromise. The Agreement, any related documents, and any negotiations relating to or supporting the Agreement shall not be construed as or deemed to be evidence, an admission, or a concession of liability, fault, or wrongdoing on the part of Defendant, or any of the Released Parties (defined below), with respect to any claim of fault or liability or wrongdoing or damage whatsoever, or with respect to the certifiability of a litigation class.

I. Plaintiff believes that the claims asserted in the Action against Defendant have merit and that he would have prevailed at summary judgment and/or trial. Nonetheless, Plaintiff and Class Counsel (defined below) recognize that Defendant has raised factual and legal defenses that present a risk that Plaintiff may not prevail. Plaintiff and Class Counsel also recognize the expense and delay associated with continued prosecution of the Action against

Defendant through a motion to dismiss, class certification, summary judgment, trial, and any subsequent appeals. Plaintiff and Class Counsel also have taken into account the uncertain outcome and risks of litigation, especially in complex class actions, as well as the difficulties inherent in such litigation. Therefore, Plaintiff believes it is desirable that the Released Claims be fully and finally compromised, settled, and resolved with prejudice. Based on its evaluation, Plaintiff and Class Counsel have concluded that the terms and conditions of this Agreement are fair, reasonable, and adequate to the Settlement Class, and that it is in the best interests of the Settlement Class to settle the claims raised in the Action pursuant to the terms and provisions of this Agreement.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiff, the Settlement Class, and each of them, and Defendant, by and through their undersigned counsel that, subject to final approval of the Court after a hearing or hearings as provided for in this Settlement Agreement, in consideration of the benefits flowing to the Parties and the Settlement Class from the Agreement set forth herein, that the Action and the Released Claims shall be finally and fully compromised, settled, and released, and the Action shall be dismissed with prejudice, upon and subject to the terms and conditions of this Agreement.

### **AGREEMENT**

#### **1. DEFINITIONS.**

As used in this Settlement Agreement, the following terms have the meanings specified below:

**1.1 “Action”** means *Jones v. Regal Cinemas, Inc.*, Civil Action No. 1:23-cv-11145, pending in the United States District Court for the Southern District of New York.

**1.2 “Approved Claim”** means a Claim Form submitted by a Settlement Class Member that is: (a) submitted timely and in accordance with the directions on the Claim Form

and the provisions of the Settlement Agreement; (b) fully and truthfully completed by a Settlement Class Member with all of the information requested in the Claim Form; (c) signed by the Settlement Class Member, physically or electronically; and (d) approved by the Settlement Administrator pursuant to the provisions of this Agreement.

**1.3 “Available Settlement Fund”** means the Settlement Fund less any Settlement Administration Expenses, any Service Award to the Class Representative, any Fee Award to Class Counsel, any taxes paid on the Settlement Fund (including any interest or penalties thereon), and any other costs, fees, or expenses approved by the Court to be paid from the Settlement Fund.

**1.4 “CAFA Notice”** means the notice described in Paragraph 4.1(e) below.

**1.5 “Cash Award”** means the cash compensation, payable by the Settlement Administrator from the Settlement Fund on a *pro rata* basis, that each Settlement Class Member who submits an Approved Claim shall be entitled to receive.

**1.6 “Claim Form”** means the document substantially in the form attached hereto as Exhibit A, as approved by the Court. The Claim Form, to be completed by Settlement Class Members who wish to file a Claim for a payment, shall be available in electronic and paper format in the manner described below.

**1.7 “Claims Deadline”** means the date by which all Claim Forms must be postmarked or received to be considered timely and shall be set as a date no later than forty-five (45) days after entry of the Final Judgment. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Notice and Claim Form. Failure to submit a timely claim by the Claims Deadline will prevent a Settlement Class Member from receiving a Cash Award from the Settlement Fund.

**1.8** “**Class Counsel**” means Philip L. Fraietta and Stefan Bogdanovich of Bursor & Fisher, P.A.

**1.9** “**Class Representative**” means the named Plaintiff in this Action, Tim Jones.

**1.10** “**Court**” means the United States District Court for the Southern District of New York, the Honorable Margaret M. Garnett presiding, or any judge who may succeed her in the Action.

**1.11** “**Days**” means calendar days, except that when computing any period of time prescribed or allowed by this Settlement Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included. When computing any period of time prescribed or allowed by this Settlement Agreement, the last day of the period so computed shall be included, unless it is a Saturday, Sunday or federal or State of New York legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or federal or State of New York legal holiday.

**1.12** “**Defendant**” means Regal Cinemas, Inc.

**1.13** “**Defendant’s Counsel**” means Jonathan B. Potts and Laith J. Hamdan of Bryan Cave Leighton Paisner LLP.

**1.14** “**Defendant’s Website**” means <https://www.regmovies.com/>.

**1.15** “**Effective Date**” means the date ten (10) days after which all of the events and conditions specified in Paragraph 9.1 have been met and have occurred.

**1.16** “**Escrow Account**” means the separate, interest-bearing escrow account to be established by the Settlement Administrator under terms acceptable to all Parties at a depository institution insured by the Federal Deposit Insurance Corporation. The Settlement Fund shall be deposited by or on behalf of Defendant into the Escrow Account in accordance with the terms of this Agreement and the money in the Escrow Account shall be invested in the following types of

accounts and/or instruments and no other: (i) demand deposit accounts and/or (ii) time deposit accounts and certificates of deposit, in either case with maturities of forty-five (45) days or less. The costs of establishing and maintaining the Escrow Account shall be paid from the Settlement Fund.

**1.17 “Fee Award”** means the amount of attorneys’ fees, costs, and expenses awarded by the Court to Class Counsel, which will be paid out of the Settlement Fund.

**1.18 “Final”** means one business day following the latest of the following events: (i) the date upon which the time expires for filing or noticing any appeal of the Court’s Final Judgment; (ii) if there is an appeal or appeals, other than an appeal or appeals solely with respect to the Fee Award, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or *certiorari*, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on *certiorari*.

**1.19 “Final Approval Hearing”** means any hearing before the Court concerning the Parties’ request for the Final Judgment to be entered by the Court approving the Settlement Agreement, the Fee Award, and the service award to the Class Representative.

**1.20 “Final Judgment”** means (i) a final judgment and order entered by the Court in conformity with the conditions set forth in Paragraphs 7.3(a), (b), (c), (d), (e), (f), (g), and (h); or (ii) any other final judgment and order entered by the Court if none of the Parties timely elect to terminate this Settlement Agreement pursuant to Paragraph 6.1.

**1.21 “Individual Out-of-Pocket Fees”** means the total amount of Booking Fees paid to Defendant by any one Settlement Class Member in connection with the Settlement Class Member’s purchase of electronic tickets to Defendant’s cinemas located in New York State from Defendant’s Website from July 31, 2023, to and through July 15, 2024, using the guest checkout process.

**1.22 “Notice”** means the notice of this proposed Class Action Settlement Agreement and Final Approval Hearing, which is to be sent to the Settlement Class substantially in the manner set forth in this Agreement, substantially in the form of Exhibits A, B, and C hereto.

**1.23 “Notice Date”** means the date by which the dissemination of Notice as set forth in Paragraph 4.1(b) is complete, which shall be no later than twenty-eight (28) days after entry of the Preliminary Approval Order.

**1.24 “Objection/Exclusion Deadline”** means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a Person within the Settlement Class must be made, which shall be designated as a date no later than sixty (60) days after the Notice Date and no sooner than fourteen (14) days after papers supporting the Fee Award are filed with the Court and posted to the Settlement Website, or such other date as ordered by the Court.

**1.25 “Out-of-Pocket Fees”** means the total amount of processing fees paid to Defendant collectively by every Settlement Class Member.

**1.26 “Out-of-Pocket Percentage”** for a Settlement Class Member means that Settlement Class Member’s Individual Out-of-Pocket Fees divided by Out-of-Pocket Fees.

**1.27 “Person”** shall mean, without limitation, any individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or

agency thereof, and any business or legal entity and their spouses, heirs, affiliates, parents, predecessors, successors, representatives, or assigns, subsidiaries, insurers, and their past, present and future directors, officers, shareholders, members, faculty, employees, agents, and attorneys both individually and in their capacities as directors, officers, shareholders, members, employees, agents, and attorneys. “Person” is not intended to include any governmental agencies or governmental actors, including, without limitation, any state Attorney General office.

**1.28 “Plaintiffs”** means Tim Jones and the Settlement Class Members.

**1.29 “Preliminary Approval”** means the Court’s certification of the Settlement Class for settlement purposes, preliminary approval of this Settlement Agreement, and approval of the form and manner of the Notice.

**1.30 “Preliminary Approval Order”** means any order preliminarily approving the Settlement Agreement, certifying the Settlement Class for settlement purposes, and directing notice thereof to the Settlement Class, which will be agreed upon by the Parties and submitted to the Court in conjunction with Plaintiffs’ motion for Preliminary Approval of the Agreement.

**1.31 “Released Claims”** means any and all actual, potential, filed, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims, demands, liabilities, rights, causes of action, contracts or agreements, extra contractual claims, damages, punitive, exemplary or multiplied damages, expenses, costs, attorneys’ fees and or obligations (including “Unknown Claims,” as defined below), whether in law or in equity, accrued or unaccrued, direct, individual or representative, of every nature and description whatsoever, whether based on the ACAL or other state, federal, local, statutory or common law or any other law, rule or regulation, against the Released Parties, or any of them, arising out of or in any way related to Booking Fees in connection with electronic ticket sales from July 31, 2023, to and through July

15, 2024, including but not limited to all claims that were brought or could have been brought in the Action.

**1.32 “Released Parties”** means Regal Cinemas, Inc. and all of its current, former, and future parents, owners, predecessors, successors, affiliates, assigns, subsidiaries, divisions, or related corporate entities, and all of their respective current, future, and former employees, officers, directors, shareholders, assigns, agents, representatives, partners, trustees, administrators, executors, insurers, attorneys, and customers, consultants, independent contractors, insurers, directors, managing directors, officers, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, firms, trusts, and corporations.

**1.33 “Releasing Parties”** means Plaintiff, Settlement Class Members, and all of their respective present or past heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

**1.34 “Service Award”** means any Court-approved award to the Class Representative, in his capacity as individual class representative, as set forth in Paragraph 8.3, and payable by the Settlement Administrator from the Settlement Fund.

**1.35 “Settlement Administration Expenses”** means the expenses incurred by the Settlement Administrator in providing Notice or CAFA Notice, processing claims, responding to inquiries from members of the Settlement Class, mailing checks, and related services, paying taxes and tax expenses related to the Settlement Fund (including all federal, state or local taxes

of any kind and interest or penalties thereon, as well as expenses incurred in connection with determining the amount of and paying any taxes owed and expenses related to any tax attorneys and accountants).

**1.36 “Settlement Administrator”** means Epiq, or such other reputable administration company that has been selected jointly by the Parties and approved by the Court to perform the duties set forth in this Agreement, including but not limited to serving as Escrow Agent for the Settlement Fund, overseeing the distribution of Notice, as well as the processing and payment of any claims to the Settlement Class as set forth in this Agreement, handling all approved payments out of the Settlement Fund, and handling the determination, payment, and filing of forms related to all federal, state and/or local taxes of any kind (including any interest or penalties thereon) that may be owed on any income earned by the Settlement Fund.

**1.37 “Settlement Amount”** means \$2,500,000.00.

**1.38 “Settlement Class”** means all individuals in the United States who purchased electronic tickets to any film screening in any of Defendant’s cinemas located in New York state from Defendant’s Website from July 31, 2023, to and through July 15, 2024, using the guest checkout process. Excluded from the Settlement Class are: (1) any member of the Regal Crown Club program from July 31, 2023, to and through July 15, 2024; (2) any Judge or Magistrate presiding over this Action and members of their families; (3) the Defendant, Defendant’s subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, and employees; (4) persons who submit a timely and valid request for exclusion from the Settlement Class; (5) the legal representatives, successors, or assigns of any such excluded persons; and (6) Class Counsel.

**1.39 “Settlement Class Member”** means an individual who falls within the definition of the Settlement Class as set forth above.

**1.40 “Settlement Fund”** means the non-reversionary cash fund that shall be established by or on behalf of Defendant in the total amount of the Settlement Amount to be deposited into the Escrow Account, according to the schedule set forth herein, plus all interest earned thereon. From the Settlement Fund, the Settlement Administrator shall pay all Cash Awards to Settlement Class Members, Settlement Administration Expenses, any Service Award to the Class Representative, any Fee Award to Class Counsel, and any other costs, fees or expenses approved by the Court to be paid from the Settlement Fund. The Settlement Fund shall be kept in the Escrow Account with permissions granted to the Settlement Administrator to access said funds until such time as the listed payments are made. The Settlement Fund includes all interest that shall accrue on the sums deposited in the Escrow Account. The Settlement Administrator shall be responsible for all tax filings with respect to any earnings on the Settlement Fund and the payment of all taxes that may be due on such earnings. The Settlement Fund represents the total extent of Defendant’s monetary obligations under this Agreement. Defendant shall not be responsible for paying any interest that may accrue on the sums deposited in the Escrow Account, and shall not be responsible for any banking fees or costs associated with the sums deposited in the Escrow Account. The payment of the Settlement Amount by, or on behalf of, Defendant fully discharges the Defendant and the other Released Parties’ financial obligations (if any) in connection with this Settlement Agreement, meaning that no Released Party shall have any other obligation to make any payment into the Escrow Account or to any Class Member, or any other Person, under this Agreement. In no event shall the total monetary obligation with respect to this Agreement on behalf of Defendant exceed \$2,500,000.00.

**1.41 “Settlement Website”** means the dedicated website created, administered, and maintained by the Settlement Administrator, as set forth in Paragraph 4.1(d), at an available URL (such as, for example, [www.regalticketfeesettlement.com](http://www.regalticketfeesettlement.com)).

**1.42 “Unknown Claims”** means claims that could have been raised in the Action and that any or all of the Releasing Parties do not know or suspect to exist, which, if known by him or her, might affect his or her agreement to release the Released Parties or the Released Claims or might affect his or her decision to agree, object or not to object to the settlement contemplated by this Agreement. Upon the Effective Date, the Releasing Parties shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of § 1542 of the California Civil Code, to the extent applicable, and any other similar statute in any state in the United States, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Upon the Effective Date, the Releasing Parties also shall be deemed to have, and shall have, waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to § 1542 of the California Civil Code. The Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Paragraph.

## **2. SETTLEMENT RELIEF.**

### **2.1 Payments to Settlement Class Members.**

(a) No later than 120 days after this Agreement is fully executed, Defendant shall pay or cause to be paid the Settlement Amount into the Escrow Account.

(b) Settlement Class Members shall have until the Claims Deadline to submit an Approved Claim. Each Settlement Class Member with an Approved Claim shall be entitled to receive as a Cash Award a pro rata payment from the Settlement Fund. The pro rata payment for each Settlement Class Member will be equal to that Settlement Class Member's Out-of-Pocket Percentage multiplied by the Available Settlement Fund. Proration of amounts due to Settlement Class Members with Approved Claims shall be determined no later than 60 days after entry of a Final Judgment.

(c) The Settlement Administrator shall pay from the Settlement Fund all Cash Awards to those Settlement Class Members with Approved Claims by check or electronic payment, at the Settlement Class Member's election. Payments of Cash Awards to all Settlement Class Members with Approved Claims shall be made within ninety (90) days after entry of a Final Judgment.

(d) To the extent that any Settlement Class Members do not claim their Cash Awards within one-hundred-eighty (180) days after Cash Awards are distributed in accordance with Paragraph 2.1(b), such Settlement Class Members shall have waived their right to a Cash Award and any unclaimed funds shall be redistributed on a *pro rata* basis (after first deducting any necessary settlement administration expenses from such unclaimed funds) to all Settlement Class Members who claimed their payments, not to exceed the Individual Out-of-Pocket Fees paid by any such Class Members.

(e) To the extent a secondary distribution would be infeasible, any unclaimed funds shall, subject to Court approval, revert to the Legal Aid Society, a non-sectarian, not-for-

profit organization, or another non-sectarian, not-for-profit organization(s) recommended by Class Counsel and approved by the Court.

(f) Subject to the provisions pertaining to the termination or cancellation of the Settlement Agreement, as set forth in Paragraph 9, no portion of the Settlement Fund shall revert back to Defendant.

**2.2 Prospective Relief.** Defendant will agree to maintain the purchase flows for tickets to New York theaters on Defendant's Website in a manner that clearly and conspicuously discloses the total cost of the tickets, inclusive of Booking Fees, prior to the ticket being selected for purchase, unless and until New York Arts and Cultural Affairs Law § 25.07(4) is amended, repealed, or otherwise invalidated. By entering into this Settlement Agreement, the Settlement Class Members agree that Defendant's current purchase flows for tickets to New York theaters on Defendant's Website clearly and conspicuously discloses the total cost of the tickets, inclusive of Booking Fees, prior to the ticket being selected for purchase.

### **3. RELEASE.**

**3.1** The obligations incurred pursuant to this Settlement Agreement shall be a full and final disposition of the Action and any and all Released Claims as against all Released Parties.

**3.2** Upon the Effective Date, the Releasing Parties, and each of them, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, and each of them.

### **4. NOTICE TO THE CLASS.**

**4.1** The Notice Plan shall consist of the following:

(a) *Settlement Class List.* No later than twenty-eight (28) days after the execution of this Agreement, Defendant shall produce to the Settlement Administrator, with a copy to Class Counsel, an electronic list from its records that includes the names, last known

email addresses, and the total amount of Out-of-Pocket Fees paid by each Settlement Class Member, to the extent available. This electronic document shall be called the “Class List”.

**(b)** *Direct Notice via Email.* No later than twenty-eight (28) days after entry of the Preliminary Approval Order, the Settlement Administrator shall send Notice via email substantially in the form attached as Exhibit B to all Settlement Class Members for whom a valid email address is in the Class List. In the event transmission of email notice results in any “bounce-backs,” the Settlement Administrator shall, if possible, correct any issues that may have caused the “bounce-back” to occur, including running a “skip-trace” to identify any potential alternative email addresses, and make a second attempt to re-send the email notice.

**(c)** *Reminder Notice.* Both thirty (30) days prior to the Claims Deadline and seven (7) days prior to the Claims Deadline, the Settlement Administrator shall send Notice via email substantially in the form attached as Exhibit B (with minor, non-material modifications to indicate that it is a reminder email rather than an initial notice), along with an electronic link to the Claim Form, to all Settlement Class Members for whom a valid email address is available in the Class List.

**(d)** *Settlement Website.* Within ten (10) days from entry of the Preliminary Approval Order, the Settlement Administrator shall post a copy of the long-form Notice, substantially in the form of Exhibit C hereto, on the Settlement Website. The Settlement Website shall also provide Class Members with copies of this Settlement Agreement, and other pertinent documents and Court filings pertaining to the settlement (including the motion for attorneys’ fees upon its filing), as well as web-based forms for Settlement Class Members to submit electronic Claim Forms, requests for exclusion from the Settlement Class, and updated postal addresses to which Cash Awards should be sent after the Final Judgment becomes Final.

(e) *CAFA Notice.* Pursuant to 28 U.S.C. § 1715, not later than ten (10) days after the Agreement is filed with the Court, the Settlement Administrator (on behalf of Defendant) shall cause to be served upon the Attorneys General of each U.S. State and Territory in which Settlement Class members reside, the Attorney General of the United States, and other required government officials, notice of the proposed settlement as required by law, subject to Paragraph 5.1 below.

**4.2** The Notice shall advise the Settlement Class of their rights, including the right to be excluded from, comment upon, and/or object to the Settlement Agreement or any of its terms. The Notice shall specify that any objection to the Settlement Agreement, and any papers submitted in support of said objection, shall be considered by the Court at the Final Approval Hearing only if, on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice, the Person making the objection files notice of an intention to do so and at the same time (a) files copies of such papers he or she proposes to be submitted at the Final Approval Hearing with the Clerk of the Court, or alternatively, if the objection is from a Class Member represented by counsel, files any objection through the Court's CM/ECF system, and (b) sends copies of such papers by mail, hand, or overnight delivery service to Class Counsel and Defendant's Counsel.

**4.3** Any Settlement Class Member who intends to object to this Agreement must present the objection in writing, which must be personally signed by the objector, and must include: (1) the objector's name and address; (2) an explanation of the basis upon which the objector claims to be a Settlement Class Member; (3) all grounds for the objection, including all citations to legal authority and evidence supporting the objection; (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the

pursuit of the objection (the “Objecting Attorneys”); and (5) a statement indicating whether the objector intends to appear at the Final Approval Hearing (either personally or through counsel who files an appearance with the Court in accordance with the Local Rules).

**4.4** If a Settlement Class Member or any of the Objecting Attorneys has/have objected to any class action settlement where the objector or the Objecting Attorneys asked for or received any payment in exchange for dismissal of the objection, or any related appeal, without any modification to the settlement, then the objection described in Paragraph 4.3 above must include a statement identifying each such case by full case caption and amount of payment received.

**4.5** A Settlement Class Member may request to be excluded from the Settlement Class by timely submitting a request for exclusion on the Settlement Website or sending a written request to the address identified in the Notice. Any such request for exclusion must be submitted on the Settlement Website or be postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. To exercise the right to be excluded, a Person who would otherwise be a Settlement Class Member must timely submit a request for exclusion on the Settlement Website or send a written request for exclusion to the Settlement Administrator that contains his/her name and address, that he/she purchased electronic tickets to one of Defendant’s cinemas located in New York State from Defendant’s Website, from July 31, 2023, to and through July 15, 2024, using the guest checkout process; and paid a Booking Fee in connection with such purchase, the name and case number of the Action, and a statement that he or she wishes to be excluded from the Settlement Class for purposes of this Settlement Agreement. A request to be excluded that does not include all of this information, or that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and the Person(s) serving such a request

shall be a member(s) of the Settlement Class and shall be bound as a Settlement Class Member by this Agreement, if approved. Any member of the Settlement Class who validly elects to be excluded from this Agreement shall not: (i) be bound by any orders or the Final Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement. Any request for exclusion must be personally signed by each Person requesting exclusion. So-called “mass” or “class” opt-outs shall not be allowed. To be valid, a request for exclusion must be submitted on the Settlement Website by 11:59 p.m., Eastern Standard Time, on the date specified in the Notice, or be postmarked or received by the date specified in the Notice.

**4.6** The Final Approval Hearing shall be no earlier than ninety (90) days after the Notice described in Paragraph 4.1(b) is provided.

**4.7** Any Settlement Class Member who does not, in accordance with the terms and conditions of this Agreement, timely and validly seek exclusion from the Settlement Class, will be bound by all of the terms of this Agreement, including the terms of the Final Judgment to be entered in the Action and the Releases provided for in the Agreement, and will be barred from bringing any action against any of the Released Parties concerning the Released Claims.

## **5. SETTLEMENT ADMINISTRATION.**

**5.1** The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement by processing Claim Forms and requests for exclusion from the Settlement Class, and disbursing funds from the Settlement Fund in a rational, responsive, cost effective, and timely manner. The terms of this Agreement, upon approval by the Court, shall at all times govern the scope of the services to be provided by the Settlement Administrator to administer the settlement, and the terms of any separate contract or agreement entered into between or among the Settlement Administrator and Class Counsel,

Defendant's Counsel, or the Defendant to administer the settlement shall be consistent in all material respects with the terms of this Agreement. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel and Defendant's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with regular reports at weekly intervals containing information concerning Notice, administration, and implementation of the Settlement Agreement. Should the Court request, the Parties shall submit a timely report to the Court summarizing the work performed by the Settlement Administrator, including a report of all amounts from the Settlement Fund paid to Settlement Class Members. Without limiting the foregoing, the Settlement Administrator shall:

**(a)** Forward to Defendant's Counsel, with copies to Class Counsel, all original documents and other materials received in connection with the administration of the settlement, and all copies thereof, within thirty (30) days after the Claims Deadline;

**(b)** Provide Class Counsel and Defendant's Counsel with drafts of all administration related documents, including but not limited to CAFA Notices, follow-up class notices or communications with Settlement Class Members, telephone scripts, website postings or language or other communications with the Settlement Class, at least five (5) days before the Settlement Administrator is required to or intends to publish or use such communications, unless Class Counsel and Defendant's Counsel agree to waive this requirement in writing on case by case basis;

(c) Receive requests to be excluded from the Settlement Class and other requests and promptly provide to Class Counsel and Defendant's Counsel copies thereof. If the Settlement Administrator receives any exclusion forms or other requests after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel;

(d) Provide weekly reports to Class Counsel and Defendant's Counsel, including without limitation, reports regarding the number of Claim Forms and requests for exclusion and/or objections received; and

(e) Make available for inspection by Class Counsel and Defendant's Counsel the Claim Forms received by the Settlement Administrator at any time upon reasonable notice.

**5.2** The Settlement Administrator shall be obliged to employ reasonable procedures to screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or fraud. The Settlement Administrator will reject any claim that does not comply in any material respect with the instructions on the Claim Form or is submitted after the Claims Deadline. Each claimant who submits an invalid Claim Form to the Settlement Administrator must be given a notice of the Claim Form's deficiency and an opportunity to cure the deficiency within twenty-one (21) days of the date of the notice. The Settlement Administrator may contact any Person who has submitted a Claim Form to obtain additional information necessary to verify the Claim Form.

**5.3** Defendant's Counsel and Class Counsel shall have the right to challenge the acceptance or rejection of a Claim Form submitted by Settlement Class Members and to obtain and review supporting documentation relating to such Claim Form. The Settlement Administrator shall follow any agreed decisions of Class Counsel and Defendant's Counsel as to the validity of any disputed submitted Claim Form. To the extent Class Counsel and

Defendant's Counsel are not able to agree on the disposition of a challenge, the disputed claim shall be submitted to the Court for binding determination.

**5.4.** Defendant, the Released Parties, and Defendant's Counsel shall have no responsibility for, interest in, or liability whatsoever with respect to: (i) any act, omission, or determination by Class Counsel, or the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the settlement or otherwise; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the allocation of Settlement Funds to Settlement Class Members or the implementation, administration, or interpretation thereof; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by, or fluctuations in value of, the Settlement Fund; or (vi) the payment or withholding of any Taxes, Tax Expenses, or costs incurred in connection with the taxation of the Settlement Fund or the filing of any federal, state, or local returns.

**5.5.** All taxes and tax expenses shall be paid out of the Settlement Fund, and shall be timely paid by the Settlement Administrator pursuant to this Agreement and without further order of the Court. Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with this Agreement and in all events shall reflect that all taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. The Released Parties shall have no responsibility or liability for the acts or omissions of the Settlement Administrator or its agents with respect to the payment of taxes or tax expenses.

## **6. TERMINATION OF SETTLEMENT.**

**6.1** Subject to Paragraphs 9.1, 9.2, and 9.3 below, Defendant or the Class Representative on behalf of the Settlement Class, shall have the right but not the obligation to

terminate this Agreement by providing written notice of the election to do so (“Termination Notice”) to all other Parties hereto within twenty-one (21) days of any of the following events: (i) the Court’s refusal to grant Preliminary Approval of this Agreement in any material respect; (ii) the Court’s refusal to grant final approval of this Agreement in any material respect; (iii) the Court’s refusal to enter the Final Judgment in this Action in any material respect; or (iv) the Final Judgment is modified or reversed in any material respect by an appellate court with jurisdiction.

**6.2 Confirmatory Discovery.** Defendant has represented that it collected \$2,380,551.54 in Booking Fees and sold 1,255,995 electronic tickets through 565,992 “guest” checkout transactions on Defendant’s Website, for film screenings at Defendant’s cinemas located in New York state from July 31, 2023, to and through July 15, 2024. Simultaneous with the execution of this Agreement, Defendant has provided a declaration from an appropriate representative with knowledge attesting to the same.

## **7. PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL ORDER.**

**7.1** Promptly after the execution of this Settlement Agreement, Class Counsel shall file this Agreement together with the Exhibits annexed hereto with the Court and shall move the Court for: Preliminary Approval of the settlement set forth in this Agreement; certification of the Settlement Class for settlement purposes only; appointment of Class Counsel and the Class Representative; and entry of a Preliminary Approval Order, which order shall set a Final Approval Hearing date and approve the Notice and Claim Form for dissemination substantially in the form of Exhibits A, B, and C hereto. The Preliminary Approval Order shall also authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to this Agreement) so long as they are consistent in all material respects

with the terms of the Settlement Agreement and do not limit or impair the rights of the Settlement Class or materially expand the obligations of Defendant.

**7.2** At the time of the submission of this Agreement to the Court as described above, Class Counsel shall request that, after Notice is given, the Court hold a Final Approval Hearing and finally approve the settlement of the Action as set forth herein.

**7.3** After Notice is given, the Parties shall request and seek to obtain from the Court a Final Judgment, which will (among other things):

(a) find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve the Agreement, including all exhibits thereto;

(b) approve the Settlement Agreement and the proposed settlement as fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding on, and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and Releasing Parties;

(c) find that the Notice implemented pursuant to the Agreement (1) constitutes the best practicable notice under the circumstances; (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action, their right to object to or exclude themselves from the proposed settlement, and to appear at the Final Approval Hearing; (3) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and (4) meets all applicable requirements of the Federal Rules of Civil Procedure, the Due Process Clause of the United States Constitution, and the rules of the Court;

(d) find that the Class Representative and Class Counsel adequately represent the Settlement Class for purposes of entering into and implementing the Agreement;

(e) dismiss the Action (including all individual claims and Settlement Class Claims presented thereby) on the merits and with prejudice, without fees or costs to any party except as provided in the Settlement Agreement;

(f) incorporate the release set forth above, make the release effective as of the Effective Date, and forever discharge the Released Parties as set forth herein;

(g) permanently bar and enjoin all Settlement Class Members who have not been properly excluded from the Settlement Class from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any lawsuit or other action in any jurisdiction based on the Released Claims;

(h) without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose; and

(i) incorporate any other provisions, as the Court deems necessary and just.

**8. CLASS COUNSEL'S ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES; SERVICE AWARD.**

**8.1** Pursuant to Fed. R. Civ. P. 23(h) and ACAL § 25.33, Defendant agrees that Class Counsel shall be entitled to seek an award of reasonable attorneys' fees and costs out of the Settlement Fund in an amount to be determined by the Court as the Fee Award. With no consideration given or received, Class Counsel will limit its petition for attorneys' fees, costs, and expenses to no more than one-third of the Settlement Fund (i.e., \$833,333.33). Payment of the Fee Award shall be made from the Settlement Fund and should the Court award less than the

amount sought by Class Counsel, the difference in the amount sought and the amount ultimately awarded pursuant to this Paragraph shall remain in the Settlement Fund.

**8.2** The Fee Award shall be payable by the Settlement Administrator within ten (10) days after entry of the Court's Final Judgment, subject to Class Counsel executing the Undertaking Regarding Attorneys' Fees and Costs (the "Undertaking") attached hereto as Exhibit D, and providing all payment routing information and tax I.D. numbers for Class Counsel. Payment of the Fee Award shall be made from the Settlement Fund by wire transfer to Class Counsel in accordance with wire instructions to be provided by Class Counsel, and completion of necessary forms, including but not limited to W-9 forms. Notwithstanding the foregoing, if for any reason the Final Judgment is reversed or rendered void as a result of an appeal(s) then any Persons or firms who shall have received the funds shall be severally liable for payments made pursuant to this Paragraph, and shall return such funds to the Settlement Fund. Additionally, should any parties to the Undertaking dissolve, merge, declare bankruptcy, become insolvent, or cease to exist prior to the final payment to Class Members, those parties shall execute a new undertaking guaranteeing repayment of funds within fourteen (14) days of such an occurrence.

**8.3** Class Counsel intends to file a motion for Court approval of a Service Award to the Class Representative, to be paid from the Settlement Fund, in addition to any funds the Class Representative stands to otherwise receive from the settlement. With no consideration having been given or received for this limitation, Plaintiff will seek no more than \$5,000 as a Service Award. Should the Court award less than this amount, the difference in the amount sought and the amount ultimately awarded pursuant to this Paragraph shall remain in the Settlement Fund. Such Service Award shall be paid from the Settlement Fund (in the form of a check to the Class Representative that is sent care of Class Counsel), within five (5) business days after entry of the

Final Judgment if there have been no objections to the Settlement Agreement, and, if there have been such objections, within five (5) business days after the Effective Date.

**9. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION.**

**9.1** The Effective Date of this Settlement Agreement shall not occur unless and until each of the following events occurs and shall be the date upon which the last (in time) of the following events occurs:

- (a) The Parties and their counsel have executed this Agreement;
- (b) The Court has entered the Preliminary Approval Order;
- (c) The Court has entered an order finally approving the Agreement,

following Notice to the Settlement Class, as provided in the Federal Rules of Civil Procedure, and has entered the Final Judgment, or a judgment consistent with this Agreement in all material respects; and

- (d) The Final Judgment has become Final.

**9.2** If some or all of the conditions specified in Paragraph 9.1 are not met, or in the event that this Agreement is not approved by the Court, or the Settlement set forth in this Agreement is terminated or fails to become effective in accordance with its terms, then this Settlement Agreement may be canceled and terminated subject to Paragraph 6.1, unless Class Counsel and Defendant's Counsel mutually agree in writing to proceed with this Agreement. If any Party is in material breach of the terms hereof, any other Party, provided that it is in substantial compliance with the terms of this Agreement, may terminate this Agreement on notice to all of the Parties and Settlement Class Members (which notice may be given by the Settlement Administrator via email to the email addresses on record for Settlement Class Members). Notwithstanding anything herein, the Parties agree that the Court's failure to approve, in whole or in part, the Fee Award to be requested by Class Counsel and/or the Service

Award to be requested for the Class Representative, as set forth in Paragraph 8 above, shall not prevent the Agreement from becoming effective, nor shall it be grounds for termination.

**9.3** If this Agreement is terminated or fails to become effective for the reasons set forth in Paragraphs 6.1 and 9.1-9.2 above, the Parties shall be restored to their respective positions in the Action as of the date of the signing of this Agreement. In such event, any Final Judgment or other order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*, and the Parties shall be returned to the *status quo ante* with respect to the Action as if this Agreement had never been entered into. Within five (5) business days after written notification of termination as provided in this Agreement is sent to the other Parties, the Settlement Fund (including accrued interest thereon), less any Settlement Administration costs actually incurred, paid or payable and less any taxes and tax expenses paid, due or owing, shall be refunded by the Settlement Administrator to Defendant, based upon written instructions provided by Defendant's Counsel. In the event that the Final Judgment or any material part thereof is vacated, overturned, reversed, or rendered void as a result of any timely filed appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, Class Counsel shall, within thirty (30) days thereof repay to Defendant, based upon written instructions provided by Defendant's Counsel, the full amount of the Fee Award, including any accrued interest, and shall cause Class Representative to repay to Defendant, based upon written instructions provided by Defendant's Counsel, the full amount of the Service Award, including any accrued interest. In the event the Fee Award, Service Award, or any part thereof is vacated, modified, reversed, or rendered void as a result of a timely filed appeal, Class Counsel shall within thirty (30) days thereof repay, or cause Class Representative to repay, to the Settlement Fund, based upon written instructions provided by the Settlement

Administrator, the Fee Award and/or Service Award, in the amount vacated or modified, including any accrued interest.

**10. MISCELLANEOUS PROVISIONS.**

**10.1** The Parties: (a) acknowledge that it is their intent to consummate this Settlement Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement, to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement, to secure final approval, and to defend the Final Judgment through any and all appeals. Class Counsel and Defendant's Counsel agree to cooperate with one another in seeking Court approval of the Settlement Agreement, entry of the Preliminary Approval Order, and the Final Judgment, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Agreement.

**10.2** The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by Plaintiff, the Settlement Class and each or any of them, on the one hand, against the Released Parties, and each or any of the Released Parties, on the other hand. Accordingly, the Parties and the Settlement Class Members agree not to assert in any forum that the Action was brought by Plaintiff or defended by Defendant, or each or any of them, in bad faith or without a reasonable basis.

**10.3** The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully the above and foregoing Agreement and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

**10.4** Whether or not the Effective Date occurs or the Settlement Agreement is terminated, neither this Agreement nor the settlement contained herein or any term, provision or definition therein, nor any act or communication performed or document executed in the course of negotiating, implementing or seeking approval pursuant to or in furtherance of this Agreement or the settlement:

(a) is, may be deemed, or shall be used, offered or received in any civil, criminal or administrative proceeding in any court, administrative agency, arbitral proceeding or other tribunal against the Released Parties, or each or any of them, as an admission, concession or evidence of, the validity of any Released Claims, the truth of any fact alleged by the Plaintiff, the appropriateness of the certification of a litigation class, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the definition or scope of any term or provision, the reasonableness of the Settlement Amount or the Fee Award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them;

(b) is, may be deemed, or shall be used, offered or received against any Released Party, as an admission, concession or evidence of any fault, misrepresentation or omission with respect to any statement or written document approved or made by the Released Parties, or any of them;

(c) is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them, as an admission or concession with respect to any liability, negligence, fault or wrongdoing or statutory meaning (including but not limited to the definition of Settlement Class) as against any Released Parties, or supporting the certification of a litigation class, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. However, the settlement, as set forth herein, this Agreement, and any

acts performed and/or documents executed in furtherance of or pursuant to this Agreement and/or the settlement, as set forth herein, may be used in any proceedings as may be necessary to effectuate the provisions of this Agreement. Further, if this Settlement Agreement is approved by the Court, any Party or any of the Released Parties may file this Agreement and/or the Final Judgment in any action that may be brought against such Party or Parties in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim;

(d) is, may be deemed, or shall be construed against Plaintiff, the Settlement Class, the Releasing Parties, or each or any of them, or against the Released Parties, or each or any of them, as an admission or concession that the consideration to be given hereunder represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and

(e) is, may be deemed, or shall be construed as or received in evidence as an admission or concession against Plaintiff, the Settlement Class, the Releasing Parties, or each and any of them, or against the Released Parties, or each or any of them, that any of Plaintiffs' claims are with or without merit or that damages recoverable in the Action would have exceeded or would have been less than any particular amount.

**10.5** The Parties and Settlement Class Members acknowledge that (a) any certification of the Settlement Class as set forth in this Agreement, including certification of the Settlement Class for settlement purposes in the context of Preliminary Approval, shall not be deemed a concession that certification of a litigation class is appropriate, or that the Settlement Class definition would be appropriate for a litigation class, nor would Defendant be precluded from challenging class certification in further proceedings in the Action or in any other action if the

Settlement Agreement is not finalized or finally approved; (b) if the Settlement Agreement is not finally approved by the Court for any reason whatsoever, then any certification of the Settlement Class will be void, the Parties and the Action shall be restored to the *status quo ante*, and no doctrine of waiver, estoppel or preclusion will be asserted in any litigated certification proceedings in the Action or in any other action; and (c) no agreements made by or entered into by Defendant in connection with the Settlement may be used by Plaintiffs, any person in the Settlement Class, or any other person to establish any of the elements of class certification in any litigated certification proceedings, whether in the Action or any other judicial proceeding.

**10.6.** No person or entity shall have any claim against the Class Representative, Class Counsel, the Settlement Administrator or any other agent designated by Class Counsel, or the Released Parties and/or their counsel, arising from distributions made substantially in accordance with this Agreement. The Parties and their respective counsel and all other Released Parties shall have no liability whatsoever for the investment or distribution of the Settlement Fund or the determination, administration, calculation, or payment of any claim or nonperformance of the Settlement Administrator, the payment or withholding of taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

**10.7.** All proceedings with respect to the administration, processing and determination of Claim Forms and settlement payments and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of Claim Forms and settlement payments, shall be subject to the jurisdiction of the Court.

**10.8** The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

**10.9** The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

**10.10** All of the Exhibits annexed to this Agreement are material and integral parts thereof and are fully incorporated herein by this reference.

**10.11** This Agreement and its Exhibits set forth the entire agreement and understanding of the Parties and Settlement Class Members with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. No representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or the Exhibits annexed hereto other than the representations, warranties and covenants contained and memorialized in such documents. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

**10.12** Except as otherwise provided herein, each Party shall bear its own costs.

**10.13** Plaintiff represents and warrants that he has not assigned any claim or right or interest therein as against the Released Parties to any other Person or Party and that he is fully entitled to release the same.

**10.14** Each counsel or other Person executing this Settlement Agreement, any of the Exhibits annexed hereto, or any related settlement documents on behalf of any Party hereto, hereby warrants and represents that such Person has the full authority to do so and has the authority to take appropriate action required or permitted to be taken pursuant to the Agreement to effectuate its terms.

**10.15** This Agreement may be executed in one or more counterparts. Signature by digital means, facsimile, or in PDF format will constitute sufficient execution of this Agreement. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court if the Court so

requests. This Agreement is not binding on the Parties until fully executed by each of the Parties hereto.

**10.16** This Settlement Agreement shall be binding upon, and inure to the benefit of, the heirs, successors and assigns of the Parties, the Settlement Class and the Released Parties.

**10.17** The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties and Settlement Class Members submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Agreement.

**10.18** This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of New York.

**10.19** This Agreement is deemed to have been prepared by counsel for all Parties, as a result of arm's-length negotiations among the Parties. Because all Parties have contributed substantially and materially to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.

**10.20** Where this Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel: Philip L. Fraietta, Bursor & Fisher, P.A., 1330 Avenue of the Americas, 32nd Floor, New York, NY 10019, [pfraietta@bursor.com](mailto:pfraietta@bursor.com); Jonathan B. Potts, Bryan Cave Leighton Paisner LLP, One Metropolitan Square, 211 North Broadway, Suite 3600, St. Louis, MO 63102, [Jonathan.Potts@bclplaw.com](mailto:Jonathan.Potts@bclplaw.com).

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURE PAGES TO FOLLOW]

**IT IS SO AGREED TO BY THE PARTIES:**

Dated: \_\_\_\_\_

**TIM JONES**

By: \_\_\_\_\_

Tim Jones, individually and as representative of the Settlement Class

Dated: 11/1/24

**REGAL CINEMAS, INC.**

By: [Signature]

Name: TODD S. BORUFF

Title: PRESIDENT

**IT IS SO STIPULATED BY COUNSEL:**

Dated: \_\_\_\_\_

**BURSOR & FISHER, PA**

By: \_\_\_\_\_

Philip L. Fraietta  
pfraietta@bursor.com  
BURSOR & FISHER, P.A.  
1330 Avenue of the Americas, 32nd Floor  
New York, New York 10019  
Tel: (646) 837-7150  
Fax: (212) 989-9163

Stefan Bogdanovich  
sbogdanovich@bursor.com  
BURSOR & FISHER, P.A.  
1990 North California Blvd., Suite 940  
Walnut Creek, CA 94596  
Tel: (925) 300-4455  
Fax: (925) 407-2700

*Proposed Class Counsel*

Dated: \_\_\_\_\_

**BRYAN CAVE LEIGHTON PAISNER LLP**

By: \_\_\_\_\_

Jonathan B. Potts  
Jonathan.Potts@bclplaw.com  
BRYAN CAVE LEIGHTON PAISNER LLP  
One Metropolitan Square

**IT IS SO AGREED TO BY THE PARTIES:**

Dated: 11/01/24

**TIM JONES**

By: *Timothy Jones*

Tim Jones, individually and as representative of the Settlement Class

Dated: \_\_\_\_\_

**REGAL CINEMAS, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**IT IS SO STIPULATED BY COUNSEL:**

Dated: November 4, 2024

**BURSOR & FISHER, PA**

By: *Philip L. Fraietta*

Philip L. Fraietta  
pfraietta@bursor.com  
BURSOR & FISHER, P.A.  
1330 Avenue of the Americas, 32nd Floor  
New York, New York 10019  
Tel: (646) 837-7150  
Fax: (212) 989-9163

Stefan Bogdanovich  
sbogdanovich@bursor.com  
BURSOR & FISHER, P.A.  
1990 North California Blvd., Suite 940  
Walnut Creek, CA 94596  
Tel: (925) 300-4455  
Fax: (925) 407-2700

*Proposed Class Counsel*

Dated: November 5, 2024

**BRYAN CAVE LEIGHTON PAISNER LLP**

By: *JBP*

Jonathan B. Potts  
Jonathan.Potts@bclplaw.com  
BRYAN CAVE LEIGHTON PAISNER LLP  
One Metropolitan Square

211 North Broadway, Suite 3600  
St. Louis, MO 63102  
Tel: (314) 259-2403

Laith J. Hamdan  
Laith.Hamdan@bclplaw.com  
BRYAN CAVE LEIGHTON PAISNER LLP  
1290 Avenue of the Americas  
New York, NY 10104  
Tel: (212) 541-2000

*Attorneys for Defendant*

**EXHIBIT A**

**Jones v. Regal Cinemas, Inc.**

United States District Court for the Southern District of New York

Civil Action No. 1:23-cv-11145-MMG

**Settlement Claim Form**

**If you are a Settlement Class Member and wish to receive a cash payment, your completed Claim Form must be postmarked on or before [REDACTED], or submitted online on or before [REDACTED].**

Please read the full notice of this settlement (available at [\[hyperlink\]](#)) carefully before filling out this Claim Form.

To be eligible to receive a cash payment from the settlement obtained in this class action lawsuit, you must submit this completed Claim Form online or by mail.

**ONLINE:** Submit this Claim Form.

**MAIL:** [\[ADDRESS\]](#)

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**PART ONE: CLAIMANT INFORMATION & PAYMENT METHOD ELECTION**

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Provide your name and contact information below. It is your responsibility to notify the Settlement Administrator of any changes to your contact information after the submission of your Claim Form.

**FIRST NAME**

**LAST NAME**

**STREET ADDRESS**

**CITY**

**STATE**

**ZIP CODE**

**EMAIL ADDRESS**

**POTENTIAL CASH PAYMENT:** You may be eligible to receive a *pro rata* cash payment, which will be based on the total amount of fees you paid, if you purchased electronic tickets to any film screening in any of Defendant’s cinemas located in New York state from Defendant’s website, <https://www.regmovies.com/>, from July 31, 2023, to and through July 15, 2024, using the guest checkout process.

**PREFERRED PAYMENT METHOD:**

Venmo  Venmo Username: \_\_\_\_\_

PayPal  PayPal Email: \_\_\_\_\_

Zelle  Zelle Email: \_\_\_\_\_

Check

QUESTIONS? VISIT [\[hyperlink\]](#) OR CALL [\[NUMBER\]](#) TOLL-FREE

**PART TWO: ATTESTATION UNDER PENALTY OF PERJURY**

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I declare under penalty of perjury under the laws of the United States of America that: (i) between July 31, 2023, to and through July 15, 2024, I purchased one or more electronic tickets to a film screening at one of Defendant's cinemas in New York State from Defendant's website <https://www.regmovies.com/>, using the guest checkout process, and paid a fee in connection with such purchase; (ii) all of the information on this Claim Form is true and correct to the best of my knowledge; and (iii) I am authorized to submit this Claim Form and have not assigned or transferred any rights, claims, or remedies I may be entitled to as a Settlement Class Member in this settlement. I understand that my Claim Form may be subject to audit, verification, and Court review.

**SIGNATURE**

**DATE**

**Please keep a copy of your Claim Form for your records.**

**EXHIBIT B**

From: SettlementAdministrator@regalticketfeesettlement.com  
To: JonQClassMember@domain.com  
Re: Legal Notice of Class Action Settlement

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**  
*Jones v. Regal Cinemas, Inc.*, Civil Action No. 1:23-cv-11145-MMG  
**(United States District Court for the Southern District of New York)**

**Our Records Indicate You Purchased Electronic Tickets To a Film Screening In Defendant's Cinemas Located in New York State from Regal's Website and Paid A Booking Fee Using The Guest Checkout Process And May Be Entitled to a Payment From a Class Action Settlement.**

*A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.*

This notice is to inform you that a settlement has been reached in a class action lawsuit claiming that Regal Cinemas, Inc. ("Defendant"), did not properly disclose a booking fee for electronic tickets to its movie theaters in New York state prior to those tickets being selected for purchase, in alleged violation of New York Arts and Cultural Affairs Law ("ACAL") § 25.07(4). Defendant denies that it violated any law, but the parties have agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.

**Am I A Class Member?** Our records indicate you may be a Class Member. Class Members are all individuals in the United States who purchased electronic tickets to any film screening in any of Defendant's cinemas located in New York state from Defendant's Website from July 31, 2023, to and through July 15, 2024, using the guest checkout process.

**What Does The Settlement Provide?** A Settlement Fund of \$2,500,000 has been established to pay the Settlement Class, together with notice and administration expenses, approved attorneys' fees and costs, and a service award to the Class Representative.<sup>1</sup> Additionally, as part of the Settlement Agreement, Defendant will agree to maintain the purchase flows for tickets to New York theaters on its website in a manner that clearly and conspicuously discloses the total cost of the tickets, inclusive of Booking Fees, prior to the ticket being selected for purchase, unless and until New York Arts and Cultural Affairs Law § 25.07(4) is amended, repealed, or otherwise invalidated.

**How Do I Get A Payment?** To receive a *pro rata* share of the Settlement Fund, which will be based on the total amount of fees you paid, you **must** submit a timely and complete Claim Form **no later than [claims deadline]**. You can file a claim by clicking [here.] Your payment will be made via PayPal, Venmo, Zelle, or check, at your election. Claim Forms must be submitted online by 11:59 p.m. EST on [DATE] or postmarked and mailed by [DATE].

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<sup>1</sup> Unless otherwise defined herein, all capitalized terms shall have the meaning set forth in the Settlement Agreement which can be viewed at [www.regalticketfeesettlement.com](http://www.regalticketfeesettlement.com).

**What Are My Other Options?** You may exclude yourself from the Settlement Class by sending a letter to the Settlement Administrator no later than [objection/exclusion deadline]. If you exclude yourself, you cannot receive a settlement payment, but you keep any rights you may have to sue the Defendant over the legal issues in the lawsuit. You and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement. Your written objection must be filed no later than [objection/exclusion deadline]. Specific instructions about how to object to, or exclude yourself from, the Settlement are available at [www.regalticketfeesettlement.com](http://www.regalticketfeesettlement.com). If you file a claim or do nothing, and the Court approves the Settlement Agreement, you will be bound by all of the Court's orders and judgments. In addition, your claims relating to the alleged collection by Defendant of Booking Fees in connection with electronic ticket sales to its cinemas in New York State from July 31, 2023 through and including July 15, 2024 will be released.

**Who Represents Me?** The Court has appointed lawyers Philip L. Fraietta and Stefan Bogdanovich of Bursor & Fisher, P.A. to represent the class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

**When Will The Court Consider The Proposed Settlement?** The Court will hold the Final Approval Hearing at [time] m. on [date] in Courtroom 906 at the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY 10007. At that hearing, the Court will: hear any objections concerning the fairness of the settlement; determine the fairness of the settlement; decide whether to approve Class Counsel's request for attorneys' fees and costs; and decide whether to award Class Representative Tim Jones \$5,000 from the Settlement Fund for his service in helping to bring and settle this case. Defendant has agreed that Class Counsel may be paid reasonable attorneys' fees from the Settlement Fund in an amount to be determined by the Court. Class Counsel will seek no more than one-third of the Settlement Fund, but the Court may award less than this amount.

**How Do I Get More Information?** For more information, including the full Notice and Settlement Agreement, go to [www.regalticketfeesettlement.com](http://www.regalticketfeesettlement.com), contact the Settlement Administrator at 1-800-\_\_\_\_-\_\_\_\_ or Regal Ticket Fee Settlement Administrator, [address], or call Class Counsel at 1-646-837-7150.

**EXHIBIT C**

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK**

*Jones v. Regal Cinemas, Inc.*, Civil Action No. 1:23-cv-11145-MMG

**If You Purchased Electronic Tickets To Any Film Screening In Any of Defendant’s Cinemas Located in New York State from Regal’s Website Using the Guest Checkout Process and Paid A Booking Fee, You May Be Entitled to a Payment From a Class Action Settlement.**

*A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.*

- A settlement has been reached in a class action lawsuit claiming that Regal Cinemas, Inc. (“Defendant”), did not properly disclose a booking fee for electronic tickets to its movie theaters in New York state prior to those tickets being selected for purchase, in alleged violation of New York Arts and Cultural Affairs Law (“ACAL”) § 25.07(4). Defendant denies that it violated any law, but has agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.
- You are included in the settlement if you purchased electronic tickets to any film screening in any of Defendant’s cinemas located in New York state from Defendant’s Website from July 31, 2023, to and through July 15, 2024, using the guest checkout process. Persons included in the settlement will be eligible to receive a *pro rata* portion of the Settlement Fund, which will be based on the total amount of fees they paid.
- Read this notice carefully. Your legal rights are affected whether you act, or don’t act.

| <b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b> |   |
|---|---|
| <b>SUBMIT A CLAIM FORM BY [DATE]</b>                    | This is the only way to receive a payment.  |
| <b>EXCLUDE YOURSELF BY [DATE]</b>                       | You will receive no benefits, but you will retain any rights you currently have to sue the Defendant about the claims in this case. |
| <b>OBJECT BY [DATE]</b>                                 | Write to the Court explaining why you don’t like the settlement.  |
| <b>GO TO THE HEARING ON [DATE]</b>                      | Ask to speak in Court about your opinion of the settlement.   |
| <b>DO NOTHING</b>                                       | You won’t get a share of the settlement benefits and will give up your rights to sue the Defendant about the claims in the case.    |

These rights and options—**and the deadlines to exercise them**—are explained in this Notice.

**BASIC INFORMATION**

**1. Why was this Notice issued?**

QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT [WWW.REGALTICKETFEESSETTLEMENT.COM](http://WWW.REGALTICKETFEESSETTLEMENT.COM)

A Court authorized this Notice because you have a right to know about a proposed settlement of this class action lawsuit and about all of your options, before the Court decides whether to give final approval to the settlement. This Notice explains the lawsuit, the settlement, and your legal rights.

The case is called *Jones v. Regal Cinemas, Inc.*, Civil Action No. 1:23-cv-11145-MMG. The person who sued is called the Plaintiff. The Defendant is Regal Cinemas, Inc.

## **2. What is a class action?**

In a class action, one or more people called class representatives (in this case, Tim Jones) sue on behalf of a group or a “class” of people who have similar claims. In a class action, the court resolves the issues for all class members, except for those who exclude themselves from the Settlement Class.

## **3. What is this lawsuit about?**

This lawsuit claims that Defendant did not properly disclose a booking fee for electronic tickets to its movie theaters in New York state prior to those tickets being selected for purchase, in alleged violation of ACAL § 25.07(4). Defendant denies that it violated any law, but has agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.

## **4. Why is there a Settlement?**

The Court has not decided whether the Plaintiff or the Defendant should win this case. Instead, both sides agreed to a settlement. That way, they avoid the uncertainties and expenses associated with ongoing litigation, and Settlement Class Members will get compensation sooner rather than, if at all, after the completion of a trial.

## **WHO’S INCLUDED IN THE SETTLEMENT?**

### **5. How do I know if I am in the Settlement Class?**

The Court decided that everyone who fits the following description is a member of the **Settlement Class**:

All individuals in the United States who purchased electronic tickets to any film screening in any of Defendant’s cinemas located

in New York state from Defendant's Website from July 31, 2023, to and through July 15, 2024, using the guest checkout process.<sup>1</sup>

"Defendant's Website" means <https://www.regmovies.com/>.

## THE SETTLEMENT BENEFITS

### 6. What does the settlement provide?

**Monetary Relief.** A Settlement Fund will be created totaling \$2,500,000. Payments to Settlement Class Members, and the cost to administer the settlement, the cost to inform people about the settlement, attorneys' fees (inclusive of litigation costs), and an award to the Class Representative will also come out of this fund (*see* Question 12).

**Prospective Relief.** Defendant will agree to maintain the purchase flows for tickets to New York theaters on its Website in a manner that clearly and conspicuously discloses the total cost of the tickets, inclusive of Booking Fees, prior to the ticket being selected for purchase, unless and until New York Arts and Cultural Affairs Law § 25.07(4) is amended, repealed, or otherwise invalidated. The Parties agree that Defendant's current purchase flows for tickets to New York theaters on its website clearly and conspicuously discloses the total cost of the tickets, inclusive of Booking Fees, prior to the ticket being selected for purchase.

A detailed description of the settlement benefits can be found in the Settlement Agreement, a copy of which is accessible on the Settlement Website by clicking [here](#).  
[insert hyperlink]

### 7. How much will my payment be?

To receive a *pro rata* share of the Settlement Fund, which will be based on the total amount of booking fees you paid, you **must** submit a timely and complete Claim Form **no later than** [claims deadline]. You can file a claim by clicking [here]. Your payment will be by PayPal, Venmo, Zelle, or check, at your election. Claim Forms must be submitted online by 11:59 p.m. EST on [DATE] or postmarked and mailed by [DATE].

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<sup>1</sup> Excluded from the Settlement Class are: (1) any member of the Regal Crown Club program from July 31, 2023, to and through July 15, 2024; (2) any Judge or Magistrate presiding over this Action and members of their families; (3) the Defendant, Defendant's subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, and employees; (4) persons who submit a timely and valid request for exclusion from the class; (5) the legal representatives, successors, or assigns of any such excluded persons; and (6) Class Counsel.

You can contact Class Counsel at (646) 837-7150 to inquire as to the number of claims and/or requests for exclusion that have been received to date.

#### **8. When will I get my payment?**

The hearing to consider the fairness of the settlement is scheduled for [Final Approval Hearing Date]. If the Court approves the settlement, eligible Settlement Class Members whose claims were approved by the Settlement Administrator will receive their payment 90 days after. The payment will be made in the form of a check, unless you elect to receive payment by PayPal, Zelle, or Venmo, and all checks will expire and become void 180 days after they are issued.

### **HOW TO GET BENEFITS**

#### **9. How do I get a payment?**

If you are a Settlement Class Member and you want to get a payment, you **must** complete and submit a Claim Form by [Claims Deadline]. Claim Forms can be found and submitted by clicking [here](#) [hyperlink], or by printing and mailing a paper Claim Form, copies of which are available for download [here](#) [hyperlink].

We also encourage you to submit your claim on-line. Not only is it easier and more secure, but it is completely free and takes only minutes!

### **REMAINING IN THE SETTLEMENT**

#### **10. What am I giving up if I stay in the Settlement Class?**

If the settlement becomes Final, you will give up your right to sue the Defendant and other Released Parties for the claims being resolved by this settlement. The specific claims you are giving up against the Defendant are described in the Settlement Agreement. You will be “releasing” the Defendant and certain of its affiliates, employees and representatives as described in Section 1.33 of the Settlement Agreement. Unless you exclude yourself (*see* Question 13), you are “releasing” the claims, regardless of whether you claim your electronic payment or not. The Settlement Agreement is available through the “court documents” link on the website.

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions, you can talk to the lawyers listed in Question 11 for free or you can, of course, talk to your own lawyer if you have questions about what this means.

### **THE LAWYERS REPRESENTING YOU**

**11. Do I have a lawyer in the case?**

The Court has appointed Philip L. Fraietta and Stefan Bogdanovich of Bursor & Fisher, P.A. to be the attorneys representing the Settlement Class. They are called “Class Counsel.” They believe, after conducting an extensive investigation, that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

**12. How will the lawyers be paid?**

The Defendant has agreed that Class Counsel’s attorneys’ fees and costs may be paid out of the Settlement Fund in an amount to be determined by the Court. The fee petition will seek no more than one-third of the Settlement Fund, inclusive of reimbursement of their costs and expenses; the Court may award less than this amount. Under the Settlement Agreement, any amount awarded to Class Counsel will be paid out of the Settlement Fund.

Subject to approval by the Court, Defendant has agreed that the Class Representative may be paid a service award of \$5,000 from the Settlement Fund for his services in helping to bring and resolve this case.

**EXCLUDING YOURSELF FROM THE SETTLEMENT**

**13. How do I get out of the settlement?**

To exclude yourself from the settlement, you must submit a request for exclusion by 11:59 p.m. EST on [objection/exclusion deadline]. Requests for exclusion may be submitted either on the Settlement Website (via the online form accessible [here](#) [insert hyperlink]) or by mailing or otherwise deliver a letter (or request for exclusion) stating that you want to be excluded from the *Jones v. Regal Cinemas, Inc.*, Civil Action No. 1:23-cv-11145-MMG settlement. Your letter or request for exclusion must also include your name, your address, a statement that you purchased electronic tickets to one of Defendant’s cinemas located in New York State from Defendant’s Website, from July 31, 2023, to and through July 15, 2024, using the guest checkout process; and paid a booking fee in connection with such purchase, your signature, the name and number of this case, and a statement that you wish to be excluded. If you choose to submit a request for exclusion by mail, you must mail or deliver your exclusion request, postmarked no later than [Objection/Exclusion Deadline], to the following address:

Regal Ticket Fee Settlement  
0000 Street  
City, ST 00000

**14. If I don't exclude myself, can I sue the Defendant for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue the Defendant for the claims being resolved by this settlement.

**15. If I exclude myself, can I get anything from this settlement?**

No. If you exclude yourself, you will not receive any payment from the Settlement Fund.

**OBJECTING TO THE SETTLEMENT**

**16. How do I object to the settlement?**

If you are a member of the Settlement Class, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must file with the Court a letter or brief stating that you object to the settlement in *Jones v. Regal Cinemas, Inc.*, Civil Action No. 1:23-cv-11145-MMG, and identify all your reasons for your objections (including citations and supporting evidence) and attach any materials you rely on for your objections. Your letter or brief must also include your name, your address, the basis upon which you claim to be a member of the Settlement Class, the name and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with your objection, and your signature. If you, or an attorney assisting you with your objection, have ever objected to any class action settlement where you or the objecting attorney has asked for or received payment in exchange for dismissal of the objection (or any related appeal) without modification to the settlement, you must include a statement in your objection identifying each such case by full case caption. You must also mail or deliver a copy of your letter or brief to Class Counsel and Defendant's Counsel listed below.

Class Counsel will file with the Court and post on this website its request for attorneys' fees by [two weeks prior to objection deadline].

If you want to appear and speak at the Final Approval Hearing to object to the settlement, with or without a lawyer (explained below in answer to Question Number 20), you must say so in your letter or brief. File the objection with the Court (or mail the objection to the Court) and mail a copy of the objection to Class Counsel and Defendant's Counsel, at the addresses below, postmarked no later than [objection deadline].

| Court                             | Class Counsel                              | Defendant's Counsel                                     |
|-----------------------------------|--|---|
| The Honorable Margaret M. Garnett | Philip L. Fraietta<br>Bursor & Fisher P.A. | Jonathan B. Potts<br>Bryan Cave Leighton Paisner<br>LLP |

|  |  |  |
|--|--|--|
| Thurgood Marshall<br>United States Courthouse<br>40 Foley Square,<br>Courtroom 906<br>New York, NY 10007 | 1330 Avenue of the<br>Americas, 32nd Floor<br>New York, NY 10019 | One Metropolitan Square<br>211 North Broadway, Suite 3600<br>St. Louis, MO 63102 |
|--|--|--|

### **17. What's the difference between objecting and excluding myself from the settlement?**

Objecting simply means telling the Court that you don't like something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself from the Settlement Class is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

## **THE COURT'S FINAL APPROVAL HEARING**

### **18. When and where will the Court decide whether to approve the settlement?**

The Court will hold the Final Approval Hearing at [redacted] .m. on [date] Courtroom 906 at the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY 10007. The purpose of the hearing will be for the Court to determine whether to approve the settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class; to consider the Class Counsel's request for attorneys' fees and expenses; and to consider the request for an incentive award to the Class Representative. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the settlement.

The hearing may be postponed to a different date or time without notice, so it is a good idea to check for updates by visiting the Settlement Website at [www.regalticketfeesettlement.com](http://www.regalticketfeesettlement.com) or calling (800) 000-0000. If, however, you timely objected to the settlement and advised the Court that you intend to appear and speak at the Final Approval Hearing, you will receive notice of any change in the date of the Final Approval Hearing.

### **19. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense. If you send an objection or comment, you don't have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend, but it's not required.

### **20. May I speak at the hearing?**

**QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT [WWW.REGALTICKETFEESSETTLEMENT.COM](http://WWW.REGALTICKETFEESSETTLEMENT.COM)**

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include in your letter or brief objecting to the settlement a statement saying that it is your “Notice of Intent to Appear in *Jones v. Regal Cinemas, Inc.*, Civil Action No. 1:23-cv-11145-MMG.” It must include your name, address, telephone number, and signature as well as the name and address of your lawyer, if one is appearing for you. Your objection and notice of intent to appear must be filed with the Court and postmarked no later than **[Objection Deadline]**, and be sent to the addresses listed in Question 16.

## GETTING MORE INFORMATION

### 21. Where do I get more information?

This Notice summarizes the settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at [www.regalticketfeesettlement.com](http://www.regalticketfeesettlement.com). You may also write with questions to **Regal Ticket Fee Settlement, P.O. Box 0000, City, ST 00000**. You can call the Settlement Administrator at **(800) 000-0000** or Class Counsel at (646) 837-7150, if you have any questions. Before doing so, however, please read this full Notice carefully. You may also find additional information elsewhere on the case website.

**EXHIBIT D**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TIM JONES, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

REGAL CINEMAS, INC.,

Defendant.

Civil Action No. 23-cv-11145-MMG

**STIPULATION REGARDING UNDERTAKING RE: ATTORNEYS' FEES, COSTS,  
AND EXPENSES**

Plaintiff Tim Jones (“Plaintiff”) and Regal Cinemas, Inc. (“Defendant”) (collectively, “the Parties”), by and through and including their undersigned counsel, stipulate and agree as follows:

WHEREAS, Bursor & Fisher, P.A. (the “Firm”) desires to give an undertaking (the “Undertaking”) for repayment of the award of attorneys’ fees, costs, and expenses approved by the Court, and

WHEREAS, the Parties agree that this Undertaking is in the interests of all Parties and in service of judicial economy and efficiency.

NOW, THEREFORE, the undersigned counsel, as agent for his law firm, hereby submits his law firm to the jurisdiction of the Court for the purpose of enforcing the provisions of this Undertaking.

Capitalized terms used herein without definition have the meanings given to them in the Settlement Agreement.

By receiving any payments pursuant to the Settlement Agreement, the Firm and its shareholders, members, and/or partners submit to the jurisdiction of the United States District Court for the Southern District of New York for the enforcement of, and any and all disputes relating to or arising out of, the reimbursement obligation set forth herein and the Settlement Agreement.

In the event that the Final Judgment or any part of it is vacated, overturned, reversed, or rendered void as a result of a timely filed appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, the Firm shall, within thirty (30) days thereof, repay to Defendant, based upon written instructions provided by Defendant's Counsel, the full amount of the Fee Award, including any accrued interest.

In the event the Final Judgment is upheld, but the attorneys' fees, costs, and expenses awarded by the Court or any part of them are vacated, modified, reversed, or rendered void as a result of a timely filed appeal, the Firm shall within thirty (30) days thereof repay to the Settlement Fund, based upon written instructions provided by the Settlement Administrator, the attorneys' fees and costs paid to the Firm from the applicable Settlement Fund in the amount vacated or modified, including any accrued interest.

This Undertaking and all obligations set forth herein shall expire upon finality of all direct appeals of the Final Judgment.

In the event the Firm fails to repay to Defendant any of attorneys' fees and costs that are owed to it pursuant to this Undertaking, the Court shall, upon application of Defendant, and notice to the Firm, summarily issue orders, including but not limited to judgments and attachment orders against the Firm, and may make appropriate findings for sanctions for contempt of court.

The undersigned stipulate, warrant, and represent that he has both actual and apparent authority to enter into this stipulation, agreement, and undertaking on behalf of the Firm.

This Undertaking may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures by facsimile, PDF, or other electronic means shall be as effective as original signatures.

The undersigned declare under penalty of perjury under the laws of the United States that they have read and understand the foregoing and that it is true and correct.

IT IS SO STIPULATED THROUGH COUNSEL OF RECORD:

DATED: Nov. 4, 2024

BURSOR & FISHER, P.A.



By: Scott A. Bursor, on behalf of Bursor & Fisher, P.A.  
Attorneys for Plaintiff

DATED: Nov. 5, 2024

BRYAN CAVE LEIGHTON PAISNER LLP



By: Jonathan B. Potts, on behalf of Defendant Regal  
Cinemas, Inc.  
Attorney for Defendant



| <b>Regal Cinema ACL Lodestar</b> |              |               |                     |
|----------------------------------|--------------|---------------|---------------------|
| <b>ATTY</b>                      | <b>HOURS</b> | <b>RATE</b>   | <b>TOTAL</b>        |
| PLF                              | 63.0         | \$ 900.00     | \$56,700.00         |
| SB                               | 65.2         | \$ 750.00     | \$48,900.00         |
| ERG                              | 22.1         | \$ 450.00     | \$9,945.00          |
| RSR                              | 0.8          | \$ 400.00     | \$320.00            |
| MCS                              | 2.7          | \$ 400.00     | \$1,080.00          |
| AMW                              | 0.1          | \$ 400.00     | \$40.00             |
|                                  | 153.9        |               | \$116,985.00        |
|                                  |              | Expenses:     | \$8,487.02          |
|                                  |              |               |                     |
|                                  |              | <b>Total:</b> | <b>\$125,472.02</b> |

| DATE       | MATTER           | ATTY | DESCRIPTION   | TIME | RATE      | AMOUNT      |
|------------|------------------|------|---|------|-----------|-------------|
| 2023.11.09 | Regal Cinema ACL | SB   | Research violations on websites and analyze text of statute   | 2.3  | \$ 750.00 | \$ 1,725.00 |
| 2023.12.12 | Regal Cinema ACL | SB   | Review NY ACAL statute (2.4); Analyze 25.07(4) (0.7)  | 3.1  | \$ 750.00 | \$ 2,325.00 |
| 2023.12.14 | Regal Cinema ACL | SB   | Compile screenshots for complaint and draft complaint.  | 4.7  | \$ 750.00 | \$ 3,525.00 |
| 2023.12.17 | Regal Cinema ACL | SB   | Review and revise complaint.  | 2.0  | \$ 750.00 | \$ 1,500.00 |
| 2023.12.19 | Regal Cinema ACL | SB   | Call w/ client re: complaint (.4); send email to client re: complaint (.2).   | 0.6  | \$ 750.00 | \$ 450.00   |
| 2023.12.20 | Regal Cinema ACL | PLF  | Review/revise complaint (1.0)   | 1.0  | \$ 900.00 | \$ 900.00   |
| 2023.12.20 | Regal Cinema ACL | SB   | Review and revise complaint.  | 0.8  | \$ 750.00 | \$ 600.00   |
| 2023.12.21 | Regal Cinema ACL | SB   | Review and revise complaint.  | 0.9  | \$ 750.00 | \$ 675.00   |
| 2023.12.22 | Regal Cinema ACL | PLF  | Finalize complaint (0.4)  | 0.4  | \$ 900.00 | \$ 360.00   |
| 2023.12.22 | Regal Cinema ACL | RSR  | Drafted Summons & CCS (.2)  | 0.2  | \$ 400.00 | \$ 80.00    |
| 2024.02.16 | Regal Cinema ACL | SB   | Review Regal MTD letter motion (.8); analyze case law on Art. III standing (2.2)  | 3.0  | \$ 750.00 | \$ 2,250.00 |
| 2024.02.18 | Regal Cinema ACL | PLF  | Research re Art. III standing argument (2.0)  | 2.0  | \$ 900.00 | \$ 1,800.00 |
| 2024.02.18 | Regal Cinema ACL | SB   | Continue reviewing standing case law (1.3); review case law on interpretation of the word "shall" (.9); draft letter motion response (2.4).   | 4.6  | \$ 750.00 | \$ 3,450.00 |
| 2024.02.19 | Regal Cinema ACL | PLF  | Research re Art. III standing argument (3.0); Confer with SB re same (0.4)  | 3.4  | \$ 900.00 | \$ 3,060.00 |
| 2024.02.20 | Regal Cinema ACL | PLF  | Review/revise PML Opp letter (1.3)  | 1.3  | \$ 900.00 | \$ 1,170.00 |
| 2024.02.23 | Regal Cinema ACL | SB   | Finalize and file letter motion response.   | 1.3  | \$ 750.00 | \$ 975.00   |
| 2024.03.04 | Regal Cinema ACL | MCS  | Drafted and finalized SB PHV, sent for review and notarization. Received notarized affidavit, filed PHV. Read judge's rules.  | 2.7  | \$ 400.00 | \$ 1,080.00 |
| 2024.03.04 | Regal Cinema ACL | SB   | Prepare and file PHV papers.  | 0.6  | \$ 750.00 | \$ 450.00   |
| 2024.03.12 | Regal Cinema ACL | PLF  | Prep for tomorrow's status conf (1.2)   | 1.2  | \$ 900.00 | \$ 1,080.00 |
| 2024.03.13 | Regal Cinema ACL | ERG  | In person hearing   | 1.9  | \$ 450.00 | \$ 855.00   |
| 2024.03.13 | Regal Cinema ACL | PLF  | Prep for and attend status conf (1.9)   | 1.9  | \$ 900.00 | \$ 1,710.00 |
| 2024.03.26 | Regal Cinema ACL | SB   | Review and finalize PHV app.  | 0.4  | \$ 750.00 | \$ 300.00   |
| 2024.04.23 | Regal Cinema ACL | PLF  | Analyze D's motion to dismiss (2.0)   | 2.0  | \$ 900.00 | \$ 1,800.00 |
| 2024.04.30 | Regal Cinema ACL | PLF  | Confer with SB re drafting MTD Opp (0.2)  | 0.2  | \$ 900.00 | \$ 180.00   |
| 2024.05.07 | Regal Cinema ACL | SB   | Prepare outline of MTD opposition.  | 1.5  | \$ 750.00 | \$ 1,125.00 |
| 2024.05.08 | Regal Cinema ACL | SB   | Draft section of MTD opp re: standing for unlawful fees.  | 2.3  | \$ 750.00 | \$ 1,725.00 |
| 2024.05.09 | Regal Cinema ACL | SB   | Review case law re: informational injury (2.5); draft section on informational injury (3.3); draft introduction (1.6); draft section on statutory history (.4); revise section on unlawful fees (.8). | 8.6  | \$ 750.00 | \$ 6,450.00 |
| 2024.05.10 | Regal Cinema ACL | PLF  | Review and revise MTD Opp (3.5)   | 3.5  | \$ 900.00 | \$ 3,150.00 |
| 2024.05.10 | Regal Cinema ACL | SB   | Review and revise MTD opp.  | 2.8  | \$ 750.00 | \$ 2,100.00 |
| 2024.05.12 | Regal Cinema ACL | SB   | Proof and finalize MTD opp.   | 1.9  | \$ 750.00 | \$ 1,425.00 |
| 2024.05.13 | Regal Cinema ACL | ERG  | Proofread MTD Opp   | 1.0  | \$ 450.00 | \$ 450.00   |
| 2024.05.13 | Regal Cinema ACL | PLF  | Finalize MTD Opp (1.0)  | 1.0  | \$ 900.00 | \$ 900.00   |
| 2024.05.13 | Regal Cinema ACL | RSR  | Prepared tables for MTD Opp (.4); filed same (.1)   | 0.5  | \$ 400.00 | \$ 200.00   |
| 2024.06.06 | Regal Cinema ACL | SB   | Prepare notice of supplemental authority of Color Factory.  | 1.1  | \$ 750.00 | \$ 825.00   |
| 2024.07.19 | Regal Cinema ACL | PLF  | Schedule mediation (0.5); Draft joint letter to stay re same (0.3)  | 0.8  | \$ 900.00 | \$ 720.00   |
| 2024.07.25 | Regal Cinema ACL | PLF  | Pre-mediation call with J. Scheindlin (0.6)   | 0.6  | \$ 900.00 | \$ 540.00   |
| 2024.07.25 | Regal Cinema ACL | SB   | Prepare for and attend call w/ Judge Scheindlin re: mediation.  | 0.6  | \$ 750.00 | \$ 450.00   |
| 2024.09.09 | Regal Cinema ACL | SB   | Review recent decision in Guthrie re: informational injury (1.3); email to PLF (.2).  | 1.5  | \$ 750.00 | \$ 1,125.00 |
| 2024.09.12 | Regal Cinema ACL | SB   | Draft mediation statement.  | 5.9  | \$ 750.00 | \$ 4,425.00 |
| 2024.09.16 | Regal Cinema ACL | ERG  | Read mediation statement (.3), discussed mediation plan with PLF (.5)   | 0.8  | \$ 450.00 | \$ 360.00   |
| 2024.09.16 | Regal Cinema ACL | PLF  | Review mediation statement and confer with E. Grasso re same (1.4)  | 1.4  | \$ 900.00 | \$ 1,260.00 |
| 2024.09.17 | Regal Cinema ACL | PLF  | Review/revise mediation statement (3.5)   | 3.5  | \$ 900.00 | \$ 3,150.00 |
| 2024.09.18 | Regal Cinema ACL | ERG  | Discussed mediation statement with PLF  | 0.2  | \$ 450.00 | \$ 90.00    |
| 2024.09.18 | Regal Cinema ACL | PLF  | Analyze settlement class data and revise mediation statement accordingly (4.0)  | 4.0  | \$ 900.00 | \$ 3,600.00 |

|            |                  |     |   |     |           |             |
|------------|------------------|-----|---|-----|-----------|-------------|
| 2024.09.18 | Regal Cinema ACL | SB  | Discuss mediation statement materials w/ PLF.   | 0.3 | \$ 750.00 | \$ 225.00   |
| 2024.09.19 | Regal Cinema ACL | ERG | Researched Regal's bankruptcy discharge (2.5), discussed with PLF (. 1); reviewed revised mediation statement (.3)  | 2.9 | \$ 450.00 | \$ 1,305.00 |
| 2024.09.20 | Regal Cinema ACL | ERG | Edited mediation statement (1.7), read defendant's statement (.5)   | 2.3 | \$ 450.00 | \$ 1,035.00 |
| 2024.09.20 | Regal Cinema ACL | PLF | Finalize mediation statement (2.4)  | 2.4 | \$ 900.00 | \$ 2,160.00 |
| 2024.09.20 | Regal Cinema ACL | RSR | Prepared TOC for Mediation Statement (.1)   | 0.1 | \$ 400.00 | \$ 40.00    |
| 2024.09.27 | Regal Cinema ACL | PLF | Prep for Monday's mediation (3.0)   | 3.0 | \$ 900.00 | \$ 2,700.00 |
| 2024.09.30 | Regal Cinema ACL | ERG | Mediation with Judge Scheindlin   | 8.0 | \$ 450.00 | \$ 3,600.00 |
| 2024.09.30 | Regal Cinema ACL | PLF | Mediation (8.0)   | 8.0 | \$ 900.00 | \$ 7,200.00 |
| 2024.09.30 | Regal Cinema ACL | SB  | Prepare for and attend mediation (8.0); discuss settlement w/ client (.3).  | 8.3 | \$ 750.00 | \$ 6,225.00 |
| 2024.10.01 | Regal Cinema ACL | PLF | Email Epiq re administration proposal (0.2)   | 0.2 | \$ 900.00 | \$ 180.00   |
| 2024.10.01 | Regal Cinema ACL | PLF | Finalize settlement term sheet (0.3); Draft joint status update to court (0.4)  | 0.7 | \$ 900.00 | \$ 630.00   |
| 2024.10.01 | Regal Cinema ACL | SB  | Review term sheet and correspondence with opposing counsel.   | 0.5 | \$ 750.00 | \$ 375.00   |
| 2024.10.02 | Regal Cinema ACL | AMW | Filed Joint letter  | 0.1 | \$ 400.00 | \$ 40.00    |
| 2024.10.08 | Regal Cinema ACL | PLF | Draft settlement agreement (4.0)  | 4.0 | \$ 900.00 | \$ 3,600.00 |
| 2024.10.09 | Regal Cinema ACL | PLF | Finalize settlement agreement draft (2.0)   | 2.0 | \$ 900.00 | \$ 1,800.00 |
| 2024.10.31 | Regal Cinema ACL | PLF | Analyze D's edits to settlement agreement and finalize same for execution (1.0)   | 1.0 | \$ 900.00 | \$ 900.00   |
| 2024.11.01 | Regal Cinema ACL | PLF | Draft preliminary approval motion (5.0)   | 5.0 | \$ 900.00 | \$ 4,500.00 |
| 2024.11.04 | Regal Cinema ACL | PLF | Finalize draft preliminary approval motion papers (2.0)   | 2.0 | \$ 900.00 | \$ 1,800.00 |
| 2024.11.12 | Regal Cinema ACL | PLF | Finalize preliminary approval motion papers (2.0)   | 2.0 | \$ 900.00 | \$ 1,800.00 |
| 2024.11.12 | Regal Cinema ACL | SB  | Review and revise notice of preliminary approval motion (.3); review and revise preliminary approval brief (2.4); review PLF declaration (.5); review and revise preliminary approval order (.7). | 3.9 | \$ 750.00 | \$ 2,925.00 |
| 2024.11.13 | Regal Cinema ACL | ERG | Proof read PA motion docs   | 1.5 | \$ 450.00 | \$ 675.00   |
| 2024.11.13 | Regal Cinema ACL | PLF | Finalize preliminary approval motion papers for filing (1.0)  | 1.0 | \$ 900.00 | \$ 900.00   |
| 2024.11.20 | Regal Cinema ACL | ERG | Calendared dates in PA order  | 0.2 | \$ 450.00 | \$ 90.00    |
| 2024.11.22 | Regal Cinema ACL | ERG | Reviewed draft notice documents and CAFA notice from Epiq   | 2.5 | \$ 450.00 | \$ 1,125.00 |
| 2024.12.02 | Regal Cinema ACL | PLF | Call with defense counsel re notice plan (0.4)  | 0.4 | \$ 900.00 | \$ 360.00   |
| 2024.12.04 | Regal Cinema ACL | ERG | Meeting with Epiq and Defense Counsel re website and data   | 0.5 | \$ 450.00 | \$ 225.00   |
| 2024.12.04 | Regal Cinema ACL | PLF | Call with settlement administrator re finalizing notice plan (0.5)  | 0.5 | \$ 900.00 | \$ 450.00   |
| 2024.12.10 | Regal Cinema ACL | PLF | Analyze proposed supplemental notice plan (0.4)   | 0.4 | \$ 900.00 | \$ 360.00   |
| 2024.12.16 | Regal Cinema ACL | ERG | Call w team   | 0.3 | \$ 450.00 | \$ 135.00   |
| 2024.12.16 | Regal Cinema ACL | SB  | Team meeting re: case and upcoming deadlines.   | 0.3 | \$ 750.00 | \$ 225.00   |
| 2023.11.10 | Regal Cinema ACL | SB  | Additional factual investigation re: violation  | 1.4 | \$ 750.00 | \$ 1,050.00 |
| 2024.09.20 | Regal Cinema ACL | PLF | Confer with ERG re Regal bankruptcy discharge (0.1)   | 0.1 | \$ 900.00 | \$ 90.00    |
| 2024.11.20 | Regal Cinema ACL | PLF | Reviewed preliminary approval order and forwarded same to Epiq for administration (0.2)   | 0.2 | \$ 900.00 | \$ 180.00   |
| 2024.12.16 | Regal Cinema ACL | PLF | Team meeting re upcoming deadlines  | 0.3 | \$ 900.00 | \$ 270.00   |
| 2024.12.23 | Regal Cinema ACL | PLF | Analyze weekly notice/claim status report (0.2); Review and approve proposed digital notice documents (0.8)   | 1.0 | \$ 900.00 | \$ 900.00   |
| 2024.12.31 | Regal Cinema ACL | PLF | Analyze weekly notice/claim status report (0.2)   | 0.2 | \$ 900.00 | \$ 180.00   |
| 2025.01.07 | Regal Cinema ACL | PLF | Analyze weekly notice/claim status report (0.2)   | 0.2 | \$ 900.00 | \$ 180.00   |
| 2025.01.14 | Regal Cinema ACL | PLF | Analyze weekly notice/claim status report (0.2)   | 0.2 | \$ 900.00 | \$ 180.00   |



| <b>Bursor &amp; Fisher, P.A. Regal Cinema ACL Expenses</b> |                  |                   |  |
|--|------------------|-------------------|--|
|  |                  | \$605.00          | Filing Fees                                |
|  |                  | \$7,600.00        | Mediation Expenses                         |
|  |                  | \$188.50          | Service of Process Expenses                |
|  |                  | \$25.60           | Research Expenses                          |
|  |                  | \$67.92           | Travel Expenses                            |
|  |                  | <b>\$8,487.02</b> | <b>Total Expenses</b>                      |
| <b>Filing Fees</b>   |                  |                   |  |
|  |                  |                   |  |
| <b>DATE</b>  | <b>MATTER</b>    | <b>AMOUNT</b>     | <b>DESCRIPTION</b>                         |
| 2023.12.26   | Regal Cinema ACL | \$405.00          | Courts/USDC-NY-SD                          |
| 2024.03.05   | Regal Cinema ACL | \$200.00          | Courts/USDC-NY-SD                          |
|  |                  | <b>\$605.00</b>   | <b>Total Filing Fees</b>                   |
| <b>Mediation Expenses</b>                                  |                  |                   |  |
|  |                  |                   |  |
| <b>DATE</b>  | <b>MATTER</b>    | <b>AMOUNT</b>     | <b>DESCRIPTION</b>                         |
| 2024.07.22   | Regal Cinema ACL | \$7,600.00        | Boies Schiller Flexner                     |
|  |                  | <b>\$7,600.00</b> | <b>Total Mediation Expenses</b>            |
| <b>Service of Process Expenses</b>                         |                  |                   |  |
|  |                  |                   |  |
| <b>DATE</b>  | <b>MATTER</b>    | <b>AMOUNT</b>     | <b>DESCRIPTION</b>                         |
| 2024.01.15   | Regal Cinema ACL | \$188.50          | First Legal Network Insurance Services LLC |
|  |                  | <b>\$188.50</b>   | <b>Total Service of Process Expenses</b>   |
| <b>Research Expenses</b>                                   |                  |                   |  |
|  |                  |                   |  |
| <b>DATE</b>  | <b>MATTER</b>    | <b>AMOUNT</b>     | <b>DESCRIPTION</b>                         |
| 2023.12.15   | Regal Cinema ACL | \$11.80           | Regal Cinemas, Inc.                        |
| 2023.12.15   | Regal Cinema ACL | \$13.80           | Regal Cinemas, Inc.                        |
|  |                  | <b>\$25.60</b>    | <b>Total Research Expenses</b>             |
| <b>Travel Expenses</b>                                     |                  |                   |  |
|  |                  |                   |  |
| <b>DATE</b>  | <b>MATTER</b>    | <b>AMOUNT</b>     | <b>DESCRIPTION</b>                         |
| 2024.03.14   | Regal Cinema ACL | \$2.90            | MTA NYCT                                   |
| 2024.03.14   | Regal Cinema ACL | \$2.90            | MTA NYCT                                   |
| 2024.03.14   | Regal Cinema ACL | \$7.81            | Uber Trip                                  |
| 2024.03.14   | Regal Cinema ACL | \$39.06           | Uber Trip                                  |
| 2024.03.15   | Regal Cinema ACL | \$15.25           | MTA Metrocard                              |
|  |                  | <b>\$67.92</b>    | <b>Total Travel Expenses</b>               |



**B&F HOURLY RATES**

(As of 1/3/2025)

**2025**

| <b>Timekeeper (Class Year) (Title)</b>                       | <b>2025 Rate</b> |
|--|------------------|
| Scott A. Bursor (1997) (Partner)                             | \$1250           |
| L. Timothy Fisher (1997) (Partner)                           | \$1250           |
| Joseph I. Marchese (2002) (Partner)                          | \$1200           |
| Josh D. Arisohn (2007) (Partner)                             | \$1050           |
| Sarah N. Westcot (2009) (Partner)                            | \$1000           |
| Neal J. Deckant (2011) (Partner)                             | \$950            |
| Yitz Z. Kopel (2012) (Partner)                               | \$925            |
| Philip L. Fraietta (2014) (Partner)                          | \$900            |
| Alec M. Leslie (2016) (Partner)                              | \$850            |
| Victoria Sheehy (2003) (Senior Staff Attorney)               | \$900            |
| Andrew J. Oberfell (2016) (Counsel)                          | \$850            |
| Stephen A. Beck (2018) (Associate)                           | \$750            |
| Stefan Bogdanovich (2018) (Associate)                        | \$750            |
| Brittany S. Scott (2019) (Associate)                         | \$700            |
| Max S. Roberts (2019) (Associate)                            | \$700            |
| Matthew A. Girardi (2020) (Associate)                        | \$650            |
| Julian C. Diamond (2020) (Associate)                         | \$650            |
| Julia K. Venditti (2020) (Associate)                         | \$650            |
| Jenna L. Gavenman (2022) (Staff Attorney)                    | \$525            |
| Emily A. Horne (2022) (Associate)                            | \$525            |
| Ira Rosenberg (2022) (Associate)                             | \$525            |
| Luke Sironski-White (2022) (Associate)                       | \$525            |
| Luis R. Fernandez (2022) (Staff Attorney)                    | \$525            |
| Ines Diaz-Villafana (2023) (Associate)                       | \$500            |
| Caroline C. Donovan (2023) (Associate)                       | \$500            |
| Joshua B. Glatt (2023) (Associate)                           | \$500            |
| Kyle Gordon (2023) (Associate)                               | \$500            |
| Joshua L. Wilner (2023) (Associate)                          | \$500            |
| Victoria Zhou (2023) (Associate)                             | \$500            |
| Eleanor R. Grasso (2024) (Associate)                         | \$450            |
| Logan J. Hagerty (2024) (Associate)                          | \$450            |
| Karen Valenzuela (2024) (Associate)                          | \$450            |
| Ryan B. Martin (2024) (Associate)                            | \$450            |
| Debbie L. Schroeder (Senior Litigation Support Specialist)   | \$400            |
| Rebecca S. Richter (Senior Litigation Support Specialist)    | \$400            |
| J. Georgina McCulloch (Senior Litigation Support Specialist) | \$400            |
| Molly C. Sasseen (Senior Litigation Support Specialist)      | \$400            |
| Steven E. Riley (Senior Litigation Support Specialist)       | \$400            |

|   |       |
|---|-------|
| Alicia M. Winfield (Senior Litigation Support Specialist) | \$400 |
| Judy Fontanilla (Senior Litigation Support Specialist)    | \$400 |
| Aaliyah Alfred (Litigation Support Specialist)            | \$350 |
| Alex Riggsby (Litigation Support Specialist)              | \$350 |
| Hannah Grunden (Litigation Support Specialist)            | \$350 |
| Alex J. Riggsby (Litigation Support Specialist)           | \$350 |
| Cesar A. Zamudio (Litigation Support Specialist)          | \$350 |
| Jade A. Greer (Litigation Support Specialist)             | \$350 |
| Jessica A. Kelley (Litigation Support Specialist)         | \$350 |
| Monica A. Castro (Litigation Support Specialist)          | \$350 |
| Ashley Dever (Litigation Support Specialist)              | \$350 |
| Gabriela Morales (Litigation Support Specialist)          | \$350 |
| Brian Palmer (Litigation Support Specialist)              | \$350 |
| Ariana Danao (Litigation Support Specialist)              | \$350 |
| Sarah Abraham (Litigation Support Specialist)             | \$350 |
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| Javier A. Garcia (Litigation Support Specialist)          | \$350 |
| Katherine N. Blanco (Litigation Support Specialist)       | \$350 |
| Karina M. Amador (Litigation Support Specialist)          | \$350 |
| Melissa Boente (Litigation Support Specialist)            | \$350 |
| Erika Powell (Litigation Support Specialist)              | \$350 |
| Kaylyn N. Rodriguez (Litigation Support Specialist)       | \$350 |

**EXHIBIT 5**



Credit: Lemonsoup14/Adobe Stock

ANALYSIS

# Senior Partners Approach \$3,000 an Hour, As More Billing Rate Hikes

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About 16 Am Law 50 firms have third-year associates with rates over \$1,000, but Valeo Partners project around half of the Am Law 50 to have rates of over \$1,000 for this group of lawyers by 2025.

September 24, 2024 at 04:19 PM

🕒 5 minute read



By Mimi Lamarre



By Andrew Maloney

Editorial

## What You Need to Know

- More big firms are going to approach hourly rates of \$3,000 for partners and \$1,000 for associates, according to new data from Valeo Partners.
- Am Law 25 to 30 firms will have standard rate increases of 10% to 13% in the new year, per the data.
- An increase in M&A activity, fierce competition for lateral partners and firm mergers are helping to push up rates, observers say.

Some Am Law 50 firms will increase billing rates substantially in 2025, with expectations that some senior partners will approach \$3,000 an hour and more associates will bill over \$1,000 an hour.

More demand in M&A and transactional practices, as well as law firm mergers and increasing demand to pay top-performing talent, are pushing billing rates higher, some observers say.

According to data from Valeo Partners, which analyzes public disclosure documents to discern upcoming rate changes, senior partners at "a few

firms" will have standard rates approaching \$3,000, and a few might exceed that marker.

Valeo Partners declined to name the firms. However, some recent bankruptcy fee packages reveal some firms are close to the \$3,000 mark already. Wilson Sonsini Goodrich Rosati billed \$2,720 an hour this year for top partners in the Rite-Aid bankruptcy. McDermott Will & Emery was charging top partners out at \$2,590 hourly at the end of 2023 in the Mountain Express Oil Co. bankruptcy.

More firms will reveal their 2025 rate increases in bankruptcy court toward the end of the year.

In the Am Law 25 to 30 as a whole, Chuck Chandler, the CEO of Valeo Partners, projected that in 2025, there will be standard rate increases of about 10% to 13%.

The expected rate hikes represent an increase from 2023, when a cohort of 10 Am Law 50 firms announced rate increases of between 8% and 10% in bankruptcy court filings. The same group of firms raised rates between 10% and 15% in early 2023.

Standard billing rates are expected to increase in the Am Law 50 to \$2,100 for senior partners and \$1,900 for partners, per the Valeo data.

Rate increases are projected to be highest amongst senior partners, or those who have 25 years or more since their law school graduations, according to Chandler. Nine of the Am Law 50 firms currently have senior partner standard hourly rates of around \$2,400 to \$2,875, while 17 will be in that range by 2025, he said.

At the same time, discounts are not expected to increase, but, instead, will stay steady at around 12% to 13%, according to Valeo.

For associates, rate increases will be more notable among third-years. Currently, 16 of the Am Law 50 firms have third-year associates with rates

over \$1,000, but Valeo projects around half of the Am Law 50 to have rates of over \$1,000 amongst this group by 2025.

Billing rates for first-year associates are approaching \$1,000 at a handful of firms, with Paul, Weiss, Rifkind, Wharton & Garrison charging a minimum of \$895 for associates in 2024, bankruptcy records show. Sullivan & Cromwell charges nearly as much—\$850 hourly—for first-years.

Sullivan & Cromwell and Paul Weiss also have among the top rates for senior associates, with associates maxing out at \$1,575 at Sullivan & Cromwell and \$1,560 at Paul Weiss.

Some of the rate increases won't even wait until 2024 — they are happening next month. Two large law firms in the Am Law 30, along with four other firms in the Am Law 200, will change their firm-wide hourly rates effective October 1, 2024, Chandler said, again declining to name which ones.

Overall, rate hikes will be most dependent "on what happens with M&A, because that's going to be a huge driver" of rate increases, said Chandler in an interview.

A spate of law firm mergers could also contribute to rate increases into next year, he said. As it stands, more law firm mergers, both domestically and across borders, are expected into 2025, as firms compete harder than ever to scale.

Along similar lines, the cost of talent is also driving the billing rates calculus, as Big Law firms have zeroed in on high-profile, money-making lateral partners in 2024. Jennifer McIver, director of legal operations/industry insights for ELM Solutions and author of a report this month about law firm rate increases, noted the projected rates for partners and associates are not a surprise because of the cost now to retain and attract talent.

"In order to keep that profit margin you're going to have to have that retention [of talent], and the more people are willing to pay for it, the law firms are going to push for that," she said.

She said whether that trend breaks depends, at least in part, on whether corporate legal departments begin moving even more work to lower-cost firms or ask their firms to cap things like the rates they can charge for their associates' time. "So, it comes down to that push and pull," she said.

## 2024 Rate Growth

Firms are building off their rate hikes in the last year. According to Wells Fargo Legal Specialty Group's survey data, average standard rates rose by 8.8% year-over-year in the first half of 2024.

Rate growth continues to be the primary contributor to revenue growth, the bank said in August.

The report this month from Wolters Kluwer ELM Solutions also noted the median billing rate increase across the industry last year jumped from 1.9% to 4.0%, and that halfway through 2024, high-priced practices like finance and securities, real estate and corporate had notched mean rate increases of over 8%. The bankruptcy and collections practice area is trending with the highest increase, with a 2024 year-to-date mean rate increase of 10.4%, according to the report.

While there are "early signs" the pace of billing rate hikes writ-large may slow due to more active client pushback and transactional uncertainty, according to another report last week, firms may also become even more reliant on those rates to maintain profitability in the event of an economic slowdown.

*Dan Roe contributed to this report.*

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# Wilson Sonsini Goodrich & Rosati

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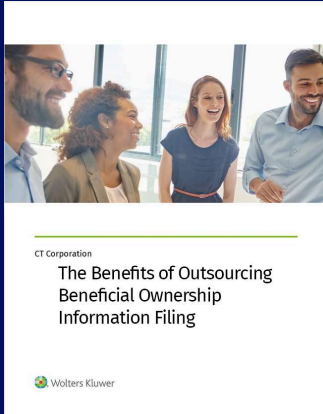
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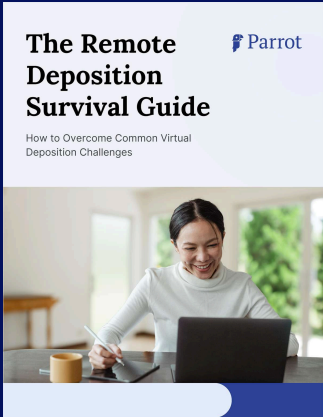
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**EXHIBIT 6**

informa   TechTarget and Informa Tech's Digital Businesses Combine.

# BigLaw partners hand over work to keep costs down, analysis shows

The bigger the firm, the smaller the percentage of partner work in the blended hourly rate, a review by Brightflag and Priori says.

Published Oct. 22, 2024



Robert Freedman  
Lead Editor

*Partners in big law firms appear to do less work on matters to help keep costs down. insta\_photos via Getty Images*

Top law firms appear to be sensitive to corporate clients' price concerns, a review of billing rates shows.

Just under 35% of the blended hourly rate charged by the biggest firms in the United States was for work done by partners, compared to about 44% for firms at the smaller end of Am Law 100 firms, according to an analysis of 2023-2024 law firm rates by e-billing and matter management company Brightflag and legal outsourcing company Priori.

That difference in partner work suggests the biggest firms are having associates and other lower fee-earners like paralegals do a larger percentage of the work to help keep rates down. "This [split] likely reflects the sensitivity of in-house teams that engage the top 50 firms to their high partner rates, which can be twice as high as the rates charged by partners in the bottom 50 firms," the analysis says.

For the typical matter, the percentage of work done by a partner in an Am Law 25 firm is 34.64%, compared to 35.85% at an Am Law 50 firm.

That percentage tends to go up as the size of the firm goes down because the smaller the firm, the less per-hour that partners charge for their work. For an Am Law 75 firm, the partner's work share is 39.16%, compared to 43.60% for an Am Law 100 firm.

That's an almost 9 percentage point difference between the top and bottom rungs of the Am Law 100.

For companies that want to gain some control over their outside counsel spend, one strategy is to negotiate with their firms over what the mix in the blended rate should look like.

"It is particularly impactful to monitor the proportion of time partners bill on matters compared to other fee earners, since partners charge so much more than other fee earners," the analysis says.

### **Increasing costs**

In-house counsel have reason to find ways to get their legal costs down because billing rates of the Am Law 100 firms jumped by 10% between 2023 and 2024, to a typical blended hourly rate of \$1,057, up from \$961. That's the most significant annual increase in three years, the report says.

In addition to size, the location of the firm determines how much corporate clients pay. New York law firms, for example, are by far the most expensive, with partners charging a typical \$1,525 per hour compared to partners in a regional firm, like one in Kansas City, where partners typically charge \$675, a difference of \$835 an hour.

The specialty work of the firm is also a price factor. Mergers and acquisitions tend to command the highest costs — \$1,680 per hour per partner for an Am Law 25 firm.

Other types of work are expensive, too. For the biggest firms, partners charge a typical hourly rate of \$1,565 for corporate work, \$1,485 for litigation and \$1,125 for intellectual property work.

By getting a handle on how much they're paying for each type of work and by whom the work is being done, corporate counsel can come to a negotiation armed with data, the report says.

“In-house teams can have strategic conversations with their law firms about acceptable rate increases, and can also create an engagement strategy that generates cost efficiencies,” the report says. “You don't have to accept blanket rate increases. Have ... discussions with your firms if the proposed rate increases seem excessive — especially if you have the data to back it up.”



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LAW | April 9, 2013, 4:48 p.m. ET

# On Sale: The \$1,150-Per-Hour Lawyer

Lawyer Fees Keep Growing, But Don't Believe Them. Clients Are Demanding, and Getting, Discounts

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By JENNIFER SMITH

Top partners at leading U.S. law firms are charging more than ever before, yet those hourly rates aren't all they appear to be.



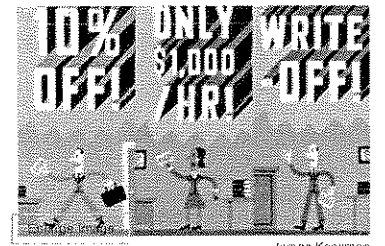
Top partners at leading U.S. law firms are charging more than ever — routinely \$1,150 or more an hour — but after discounts and write-offs the nosebleed rates aren't all they appear to be. Jennifer Smith reports. Photo: Getty Images.

Having blown past the once-shocking price tag of \$1,000 an hour, some sought-after deal, tax and trial lawyers are commanding hourly fees of \$1,150 or more, according to an analysis of billing rates compiled from public filings.

But, as law firms boost their standard rates, many are softening the blow with widespread discounts and write-offs, meaning fewer clients are paying full freight. As a result, law firms on

average are actually collecting fewer cents on the dollar, compared with their standard, or "rack," rates, than they have in years.

Think of hourly fees "as the equivalent of a sticker on the car at a dealership," said legal consultant Ward Bower, a principal at Altman Weil Inc. "It's the beginning of a negotiation....Law firms think they are setting the rates, but clients are the ones determining what they're going to pay."



James Kaczean

Star lawyers still can fetch a premium, and some of them won't budge on price. The number of partners billing \$1,150-plus an hour has more than doubled since this time last year, according to Valeo Partners, a consulting firm that maintains a database of legal rates pulled from court filings and other publicly disclosed information. More than 320 lawyers in

the firm's database billed at that level in the first quarter of 2013, up from 158 a year earlier.

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That gilded circle includes tax experts such as Christopher Roman of King & Spalding LLP and Todd Maynes of Kirkland & Ellis LLP, intellectual-property partner Nader A. Mousavi of Sullivan & Cromwell LLP, and deal lawyers such as Kenneth M. Schneider of Paul, Weiss, Rifkind, Wharton & Garrison LLP.

Those lawyers and their firms either declined to comment or didn't reply to requests for comment.

When corporate legal departments need a trusted hand to fend off a hostile takeover or win a critical court battle, few general counsels will nitpick over whether a key lawyer is charging \$900 an hour or \$1,150 an hour. But for legal matters where their future isn't on the line, companies are pushing for—and winning—significant price breaks.

"We almost always negotiate rates down from the rack rates," said Randal S. Milch, general counsel for phone giant Verizon Communications Inc. [VZ +0.29%] The result, he said, is a "not-insignificant discount."

For the bread-and-butter work that many big law firms rely on, haggling has become the norm. Many clients grew accustomed to pushing back on price during the recession and continue to demand discounts.

Some companies insist on budgets for their legal work. If a firm billing by the hour exceeds a set cap, lawyers may have to write off some of that time.

Other clients refuse to work with firms who don't discount, lopping anywhere from 10% to 30% off their standard rates. Some may grant rate increases to individual partners or associates they deem worthy. Another tactic: locking in prices with tailored multiyear agreements with formulas governing whether clients grant or refuse a requested rate increase.

In practical terms, that means the gap between law firms' sticker prices and the amount of money they actually bill and collect from their clients is wider than it has been in years.

According to data collected by Thomson Reuters Peer Monitor, big law firms raised their average standard rate by about 9.3% over the past three years. But they weren't able to keep up on the collection side, where the increase over the same period was just 6%. Firms that used to collect on average about 92 cents for every dollar of standard time their lawyers worked in 2007, before the economic downturn, now are getting less than 85 cents. "That's a historic low," said James Jones, a senior fellow at the Center for the Study of the Legal Profession at Georgetown Law.

To be sure, things have certainly picked up some since the recession, when some clients flat-out refused to pay rate increases.

In the first quarter of 2013, the 50 top-grossing U.S. law firms boosted their partner rates by as much as 5.7%, billing on average between \$879 and \$882 an hour, according to Valeo Partners. Rates for junior lawyers, whose labors have long been a profit engine for major law firms, jumped even more.

While some clients resisted using associate lawyers during the downturn, refusing to pay hundreds of dollars an hour for inexperienced first- or second-year attorneys, the largest U.S. law firms have managed to send the needle back up again. This year, for the first time, the average rate for associates with one to four years of experience rose to \$500 an hour, according to Valeo.

The increases continue the upward trend of 2012, when legal fees in general rose 4.8% and associate billing rates rose by 7.4%, according to a coming report by TyMetrix Legal Analytics, a unit of Wolters Kluwer, [WKL.AE +0.95%] and CEB, a research and advisory-services company. Those numbers are based on legal-spending data from more than 17,000 law firms.

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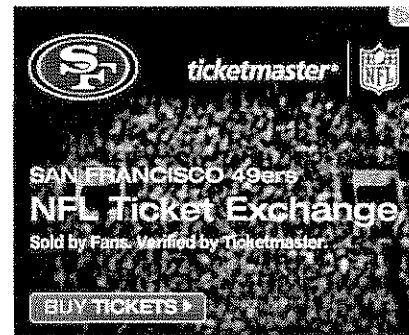
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More than a dozen leaders at major law firms declined to discuss rate increases on the record, though some said privately that the increase in associate rates could be caused in part by step increases as junior lawyers gain in seniority.

Joe Sims, an antitrust partner at Jones Day and former member of the firm's partnership committee, said clients don't mind paying for associates, as long as they feel they are getting their money's worth.

Sophisticated clients, he said, tend to focus on the overall price tag for legal work, not on individual rates. "They are more concerned about how many people are working on the project and the total cost of the project," Mr. Sims said. "Clients want value no matter who is on the job."

While a handful of elite lawyers have successfully staked out the high end—the deal teams at Wachtell, Lipton, Rosen & Katz, for example—legal experts say that client pressure to control legal spending means most law firms must be considerably more flexible on price.

"There will always be some 'bet the company' problem where a client will not quibble about rates," said Mr. Jones, the Georgetown fellow. "Unfortunately, from the law firms' standpoint, that represents a small percentage of the work."

Write to Jennifer Smith at [jennifer.smith@wsj.com](mailto:jennifer.smith@wsj.com)

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April 16, 2012 5:20 PM

### **When It Comes to Billing, Latest Rate Report Shows the Rich Keep Getting Richer**

Posted by Sara Randazzo

Hourly rates just keep rising—and the best-paid lawyers are raising their rates faster than everyone else.

Those are two of the key findings contained in the [2012 Real Rate Report](#), an analysis of \$7.6 billion in legal bills paid by corporations over a five-year period ending in December 2011. The report, released Monday, is the second such collaboration between TyMetrix, a company that manages and audits

legal bills for corporate legal departments, and the Corporate Executive Board.

Many of the new rate report's findings echo those contained in the 2010 study, including the fact that rates keep going up, almost across the board, and that the cost of a given matter can vary dramatically depending on a law firm's size and location and its relationship with a particular client.

At the same time, this year's study shows that the legal sector is becoming increasingly bifurcated, with top firms raising rates faster than those at the bottom of the market and large firms charging a premium price based purely on their size.

"What it's really showing is that there's an increased premium being paid for experience and expertise," says Julie Peck, vice president of strategy and market development at TyMetrix. "Some parts of the lawyer market are able to raise rates much more quickly, and are more impervious to economic forces than others."

To compile the current rate report, TyMetrix received permission from its clients to examine legal fees billed to 62 companies across 17 industries including energy, finance, retail, technology, insurance, and health care. The bills, which represent the amount actually paid by the companies in question rather than the amount initially charged, came from more than 4,000 firms in 84 metropolitan areas around the country. Every firm on the 2011 Am Law 100 is represented in the data.

The report's key data points include:

**A Widening Gap:** Hourly rates charged by lawyers in the legal sector's upper echelon grew faster between 2009 and 2011 than those charged by lawyers toiling on the lower rungs. Particularly striking was the jump in associate rates billed by those falling in the report's top quartile: 18 percent on average, to just over \$600 per hour. Rates billed by top quartile partners, meanwhile, rose 8 percent, to just under \$900 per hour. In the bottom quartile, associate rates rose 4 percent and partner rates rose 3 percent during the same period.

**The Recession's (Minor) Toll:** Even amid the economic downturn, the cost of an hour of a lawyer's time continued to rise faster than key measures of inflation. That said, the legal industry wasn't completely immune to the broader economy's slowdown. After rising 8.2 percent between 2007 and 2008, hourly rates rose just 2.3 percent in 2009. Law firms bounced back a bit last year, with rates climbing 5.1 percent, to an average of \$530 an hour.

**Location Counts:** Not surprisingly, lawyers working in major metropolitan areas—where, as the rate report notes, rents are typically higher—are the priciest. An address in Boston, Chicago, Los Angeles, San Francisco, or Washington, D.C., alone adds about \$161 to the hourly rate charged by an individual lawyer. Those six cities and Baltimore, Houston, Philadelphia, and San Jose are the ten U.S. markets with the highest hourly rates. With an average partner rate topping \$700 per hour and average associate rate of more than \$450 per hour, New York is the most expensive market in the country. The least expensive? Riverside, California, where the average partner bills at under \$250 per hour and associates bill at just over \$300 an hour.

**In the Minority:** A small group of lawyers—12 percent—bucked the trend toward higher fees and actually lowered rates between 2009 to 2011—and 3 percent trimmed rates by \$50 or more per hour. (Most of those in the rate-cutting camp were based outside the big six markets identified above.) At the other end of the spectrum, 52 percent of lawyers increased rates by between \$25 and \$200 or more per hour. Another 18 percent increased rates by less than \$25 per hour, and the final 18 percent held rates steady.

**First-Year Blues:** Even before the recession hit, clients balked at paying for what they considered on-the-job training for first-year associates. The latest rate report is likely to reinforce that reluctance, given its finding that using entry-level lawyers adds as much as 20 percent to the cost of a legal matter. The report offers evidence that firms may be accommodating clients on this front: The percentage of bills attributed to entry-level associates dropped from 7 percent in 2009 to 2.9 percent last year.

**Ties That Bind:** The more work one firm handles for a client—and the longer the client relationship extends—the higher the average rate the firm charges. For companies that paid one firm \$10 million or more in a single year, the average hourly rate paid was \$553 in 2011. By comparison, clients that limited their spending on an individual firm to \$500,000 paid that firm an average of \$319 per hour.

**Four-Digit Frontier:** Data has consistently shown that many lawyers hesitate to charge more than \$1,000 an hour, and in 2011 just under 3 percent of the lawyers covered by the rate report had broken that barrier. Of those, the vast majority were working in the six main legal markets identified above and 60 percent of the time, they billed in increments of one hour or less.

**Playing Favorites:** Across all practice areas, 90 percent of lawyers charged different clients different rates for similar types of work. (The figure for mergers and acquisitions lawyers was 100 percent.) The differences from client to client can be extreme, and were even more pronounced in the current report than in the 2010 edition. Rates charged by intellectual property specialists, for instance, had a median variance of 23.1 percent, while lawyers doing commercial and contract work showed a 18.7 percent median difference.

**Who's Doing What?** A closer look at law firm bills for work performed on litigation and intellectual property assignments shows that the kind of timekeeper billing on a matter varies by practice type. On patent matters, the report shows, 47 percent of hours billed on average are attributed to paralegals, and 37 percent by partners. By comparison, paralegals account for just 8 percent of the work done on labor and employment litigation hours, while partners handle 45 percent.

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FEBRUARY 23, 2011  
**Top Billers**

Top attorneys in the U.S. are asking for as much as \$1,250 an hour, according to recent court filings, significantly more than in previous years, as they take advantage of big clients willing to pay top dollar even amid the downturn. The move is contributing to price inflation across the sprawling \$100 billion global corporate law firm industry, where lawyers often study rival attorney fee filings in bankruptcy cases. See which attorneys had some of the highest-known hourly rates in 2010 and 2009. Click on column headers to sort.

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| Name                     | Firm                     | Practice Area 1          | Practice Area 2         | Practice Area 3         | Hourly Rate | Case Name                       | Date |
|--------------------------|--------------------------|--------------------------|-------------------------|-------------------------|-------------|---------------------------------|------|
| Racke, Kirk A.           | Kirkland & Ellis LLP     | Corporate                |                         |                         | \$1,250     | Reader's Digest Association Inc | 2010 |
| Taplin, Ish              | Kirkland & Ellis LLP     | Tax                      |                         |                         | \$1,220     | Vision Corp.                    | 2010 |
| Schmidt, Gerhard         | Wells Fargo              | Finance                  | Corporate               | Mergers and Acquisition | \$1,165     | Aeris International             | 2010 |
| Gon, Michelle Y.L.       | Baker McKenzie           | Real Estate              | Mergers and Acquisition | Intellectual Property   | \$1,163     | Morris Liquidation Company      | 2010 |
| Shuzar, Andrew           | Cleary Gottlieb          | Bankruptcy               |                         |                         | \$1,160     | Truvo                           | 2010 |
| McDonald, Michael        | Cleary Gottlieb          | Corporate                | Mergers and Acquisition |                         | \$1,160     | Truvo                           | 2010 |
| Vandermerech, Dirk       | Cleary Gottlieb          | Environmental Litigation | Litigation              |                         | \$1,130     | Truvo                           | 2010 |
| Reding, Jacques          | Cleary Gottlieb          | Bankruptcy               | Mergers and Acquisition | Equities                | \$1,130     | Truvo                           | 2010 |
| McArdle, Wayne P.        | Gibson Dunn              | Corporate                |                         |                         | \$1,110     | Lehman Brothers Holding Inc     | 2010 |
| DuBois, Pierre-Alexandre | Kirkland & Ellis LLP     | Intellectual Property    |                         |                         | \$1,105     | Reader's Digest Association Inc | 2010 |
| Scheller, Brad           | Fried Frank              | Bankruptcy               |                         |                         | \$1,100     | Station Casinos                 | 2010 |
| Lewin-Smith, Guy         | Debevoise & Plimpton LLP | Corporate                |                         |                         | \$1,080     | MIG Inc                         | 2010 |
| Brown, Michael           | Jones Day                | Finance                  | Litigation              | Regulatory              | \$1,075     | Lehman Brothers Holding Inc     | 2010 |
| Coffey, Lee              | Jones Day                | Litigation               | International Law       | Energy                  | \$1,075     | Lehman Brothers Holding Inc     | 2010 |
| Stueck, Barnaby C.       | Jones Day                | Bankruptcy               |                         |                         | \$1,075     | Lehman Brothers Holding Inc     | 2010 |
| Kortan, Michael A.       | Gibson Dunn              | Litigation               |                         |                         | \$1,075     | Airbnb                          | 2010 |
| Brockway, David          | Bingham McCutchen        | Corporate                |                         |                         | \$1,065     | Lehman Brothers Holding Inc     | 2010 |
| Magee, John B.           | Bingham McCutchen        | Tax                      |                         |                         | \$1,065     | Lehman Brothers Holding Inc     | 2010 |
| Nelson, William F.       | Bingham McCutchen        | Tax                      |                         |                         | \$1,065     | Lehman Brothers Holding Inc     | 2010 |
| Pisliko, Bernie          | Shearman & Sterling LLP  | Tax                      |                         |                         | \$1,065     | Worldspace                      | 2010 |
| Meyerson, Lee            | Simpson Thacher          | Capital Markets          | Mergers and Acquisition |                         | \$1,050     | Washington Mutual               | 2010 |
| Nesgos, Polar            | Mitbank Tweed            | Finance                  |                         |                         | \$1,050     | Sea Launch Company              | 2010 |
| Clayton, Lewis           | Paul Weiss               | Intellectual Property    |                         |                         | \$1,050     | SP Wind Down Inc                | 2010 |
| Fleider, Robert          | Paul Weiss               | Labor and Employment     |                         |                         | \$1,050     | SP Wind Down Inc                | 2010 |
| Reizenberg, Peter        | Paul Weiss               | Corporate                | Tax                     |                         | \$1,050     | SP Wind Down Inc                | 2010 |
| Baronsky, Kenneth J      | Mitbank Tweed            | Bankruptcy               | Mergers and Acquisition | Securities Litigation   | \$1,050     | Station Casinos                 | 2010 |
| Palmer, Deryck A.        | Cadwalader               | Finance                  | Bankruptcy              | Mergers and Acquisition | \$1,050     | Lyondell Chemical Company       | 2010 |
| Aronzon, Paul            | Mitbank Tweed            | Bankruptcy               |                         |                         | \$1,050     | Lehman Brothers Holding Inc     | 2010 |

| Name                 | Firm                 | Practice Area 1          | Practice Area 2 | Practice Area 3             | Hourly Rate | Case Name                       | Date |
|----------------------|----------------------|--------------------------|-----------------|-----------------------------|-------------|---------------------------------|------|
| Bray, Gregory        | Milbank Tweed        | Bankruptcy               |                 |                             | \$1,050     | Midway Games Inc                | 2010 |
| Duhne, Dennis        | Milbank Tweed        | Bankruptcy               |                 |                             | \$1,050     | Lehman Brothers Holding Inc     | 2010 |
| Schiff, Kenneth E.   | Weil Gotshal         | Mergers and Acquisitions |                 |                             | \$1,030     | Essexdale Stay Inc              | 2010 |
| Kar, Partha          | Kirkland & Ellis LLP | Bankruptcy               |                 |                             | \$1,030     | Reader's Digest Association Inc | 2010 |
| Budd, Thomas M.      | Gibson Dunn          | Finance                  |                 |                             | \$1,027     | Lehman Brothers Holding Inc     | 2010 |
| Moore, Robert Jay    | Milbank Tweed        | Bankruptcy               |                 |                             | \$1,025     | Calm Jumper                     | 2010 |
| Dakin-Grimm, Linda   | Milbank Tweed        | Litigation               |                 |                             | \$1,025     | Lehman Brothers Holding Inc     | 2010 |
| Davis, Trayton M.    | Milbank Tweed        | Finance                  | Bankruptcy      | Investment Funds Litigation | \$1,025     | Lehman Brothers Holding Inc     | 2010 |
| Grushkin, Jay D.     | Milbank Tweed        | International Law        | Finance         | Transportation              | \$1,025     | Lehman Brothers Holding Inc     | 2010 |
| Heiler, David S.     | Latham Watkins       | Bankruptcy               |                 |                             | \$1,025     | In re: NEC Holdings Corp.       | 2010 |
| Hershtald, Michiel   | Milbank Tweed        | Tax                      | Real Estate     | Finance                     | \$1,025     | Lehman Brothers Holding Inc     | 2010 |
| Magoff, Rainer       | Milbank Tweed        | Finance                  |                 |                             | \$1,025     | Lehman Brothers Holding Inc     | 2010 |
| Tomback, Andrew E.   | Milbank Tweed        | Litigation               | Finance         |                             | \$1,025     | Lehman Brothers Holding Inc     | 2010 |
| Sharp, Richard       | Milbank Tweed        | Litigation               |                 |                             | \$1,025     | Lehman Brothers Holding Inc     | 2010 |
| Clowry, Kait J.K.    | Paul Hastings        | Corporate                |                 |                             | \$1,021     | Lehman Brothers Holding Inc     | 2010 |
| Eagan, Mark J.       | Paul Hastings        | Real Estate              |                 |                             | \$1,021     | Lehman Brothers Holding Inc     | 2010 |
| O'Sullivan, Ronan P. | Paul Hastings        | Corporate                | Real Estate     |                             | \$1,021     | Lehman Brothers Holding Inc     | 2010 |
| Lifson, Richard S.   | Cleary Gottlieb      | Corporate                | Finance         | Mergers and Acquisition     | \$1,020     | Truve                           | 2010 |
| Dunbar, James A.     | Cleary Gottlieb      | Finance                  | Tax             |                             | \$1,020     | Truve                           | 2010 |
| Passio, James        | Cleary Gottlieb      | Tax                      |                 |                             | \$1,020     | Truve                           | 2010 |
| Gorin, William F.    | Cleary Gottlieb      | Corporate                | Government      | Capital Markets             | \$1,020     | Truve                           | 2010 |
| Moloney, Thomas J.   | Cleary Gottlieb      | Bankruptcy               | Litigation      | Finance                     | \$1,020     | Truve                           | 2010 |

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Source: Veeva partners, Washington, D.C. Notes: Based on recent filings in a range of bankruptcy cases. Some lawyers may have standard hourly rates above what they charged in these cases.

(See correction.)

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FEBRUARY 26, 2011

## Top Billers

Top attorneys in the U.S. are asking for as much as \$1,250 an hour, according to recent court filings, significantly more than in previous years, as they take advantage of big clients willing to pay top dollar even amid the downturn. The move is contributing to price inflation across the struggling \$100 billion global corporate law firm industry, where lawyers often study rival attorney fee filings in bankruptcy cases. See which attorneys had some of the highest-known hourly rates in 2010 and 2009. Click on column headers to sort.

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| Aleksander, Nicholas P.B. | Gibson Dunn          | Tax                            |                        |                         | \$1,018     | Lehman Brothers Holding Inc   | 2010 |
| Rocher, Philip            | Gibson Dunn          | Litigation                     |                        |                         | \$1,018     | Lehman Brothers Holding Inc   | 2010 |
| Thomas, Andrew S.V.       | Gibson Dunn          | Corporate                      |                        |                         | \$1,018     | Lehman Brothers Holding Inc   | 2010 |
| Blyth, Mark               | Litigators           | Litigation                     |                        |                         | \$1,010     | Nortel Networks               | 2010 |
| Cox, Tim                  | Litigators           | Corporate                      |                        |                         | \$1,018     | Nortel Networks               | 2010 |
| Sachdev, Nabeel V.        | Kirkland & Ellis LLP | Corporate                      |                        |                         | \$1,015     | Visteon Corp                  | 2010 |
| Mayo, David               | Paul Weiss           | Tax                            |                        |                         | \$1,015     | BP Wind Down Inc              | 2010 |
| Cohen, Joel               | Gibson Dunn          | Bankruptcy                     |                        |                         | \$1,014     | Almatis                       | 2010 |
| Sullivan, Peter           | Gibson Dunn          | Intellectual Property          | Litigation             |                         | \$1,014     | Almatis                       | 2010 |
| Trinklein, Jeffrey        | Gibson Dunn          | Tax                            | Employee Benefits      | Energy                  | \$1,014     | Almatis                       | 2010 |
| Vance, Janet L.           | Gibson Dunn          | Finance                        | Corporate              |                         | \$1,014     | Almatis                       | 2010 |
| Buffone, Steven P.        | Gibson Dunn          | Energy                         | Corporate              | Finance                 | \$1,008     | Almatis                       | 2010 |
| Jowitt, Justin S.         | Paul Hastings        | Finance                        |                        |                         | \$1,004     | Lehman Brothers Holding Inc   | 2010 |
| Gander, Fred R.           | Dewey LeBoeuf LLP    | Finance                        | Tax                    | Corporate               | \$1000      | Ambac                         | 2010 |
| Vyskocil, Mary Kay        | Simpson Thacher      | Insurance                      | Litigation             |                         | \$1000      | Washington Mutual             | 2010 |
| Brown, Avri               | Simpson Thacher      | Employee Benefits              | Executive Compensation |                         | \$1000      | American Safety Razor Company | 2010 |
| Etherton, Ugarne          | Weil Gotshal         | Mergers and Acquisitions       |                        |                         | \$1000      | Lehman Brothers Holding Inc   | 2010 |
| McCahill, Dominic T.      | Weil Gotshal         | Bankruptcy                     |                        |                         | \$1000      | Lehman Brothers Holding Inc   | 2010 |
| Tringali, Joseph F.       | Simpson Thacher      | Litigation                     | Arbitration            | Intellectual Property   | \$1000      | American Safety Razor Company | 2010 |
| Francis, Michael          | Weil Gotshal         | Mergers and Acquisitions       |                        |                         | \$1000      | Lehman Brothers Holding Inc   | 2010 |
| Keller, Andy              | Simpson Thacher      | Corporate                      | Energy                 |                         | \$1000      | Lehman Brothers Holding Inc   | 2010 |
| Nave, Douglas             | Weil Gotshal         | Arbitration                    | Finance                | Mergers and Acquisition | \$1000      | Motors Liquidation Company    | 2010 |
| Norwood, Andrew R.        | Weil Gotshal         | Finance                        |                        |                         | \$1000      | Lehman Brothers Holding Inc   | 2010 |
| Ostrager, Barry R.        | Simpson Thacher      | Litigation                     |                        |                         | \$1000      | Washington Mutual             | 2010 |
| Harepool, Anthony         | Weil Gotshal         | Bankruptcy                     |                        |                         | \$1000      | Lehman Brothers Holding Inc   | 2010 |
| Kelly, Jacky              | Weil Gotshal         | Bankruptcy                     | Finance                |                         | \$1000      | Lehman Brothers Holding Inc   | 2010 |
| Nicklin, Michael          | Weil Gotshal         | Bankruptcy                     | Finance                | Equities                | \$1000      | Lehman Brothers Holding Inc   | 2010 |
| Shankland, Matthew        | Weil Gotshal         | Alternative Dispute Resolution |                        |                         | \$1000      | Lehman Brothers Holding Inc   | 2010 |
| Martin, Stefan            | Allen & Overy LLP    | Labor and Employment           |                        |                         | \$1,152     | BearingPoint                  | 2009 |

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| Name                   | Firm                   | Practice Area 1          | Practice Area 2 | Practice Area 3 | Hourly Rate | Case Name                       | Date |
|------------------------|------------------------|--------------------------|-----------------|-----------------|-------------|---------------------------------|------|
| Huber, John J.         | Latham Watkins         | Capital Markets          |                 |                 | \$1,120     | Aviza Technology                | 2009 |
| Reynolds, Michael      | Allen & Overy LLP      | Mergers and Acquisitions |                 |                 | \$1,111     | Chemtura Corp.                  | 2009 |
| Norley, Lyndon E.      | Kirkland & Ellis LLP   | Bankruptcy               |                 |                 | \$1,110     | Chemtura Corp.                  | 2009 |
| Norley, Lyndon E.      | Kirkland & Ellis LLP   | Bankruptcy               |                 |                 | \$1,100     | Reader's Digest Association Inc | 2009 |
| Reiss, John M.         | White & Case           | Mergers and Acquisitions | Equities        |                 | \$1,100     | Heartland Automotive Holdings   | 2009 |
| Gillespie, Stephen     | Kirkland & Ellis LLP   | Corporate                |                 |                 | \$1,080     | Chemtura Corp.                  | 2009 |
| Nakata, Nobuo          | Allen & Overy LLP      | Corporate                |                 |                 | \$1,077     | BearingPoint                    | 2009 |
| Brown, Stephen         | Latham Watkins         | Employee Benefits        |                 |                 | \$1,065     | Aviza Technology                | 2009 |
| Chanda, Kenneth D. C.  | Latham Watkins         | Mergers and Acquisitions |                 |                 | \$1,065     | Aviza Technology                | 2009 |
| Pinn, Sean             | Latham Watkins         | Tax                      |                 |                 | \$1,065     | Aviza Technology                | 2009 |
| Sifran, Lawrence       | Latham Watkins         | Finance                  |                 |                 | \$1,065     | Aviza Technology                | 2009 |
| Verbung, Leonard       | Allen & Overy LLP      | Labor and Employment     |                 |                 | \$1,065     | BearingPoint                    | 2009 |
| Lee-Lim, Jiyeon        | Latham Watkins         | International Law        | Tax             |                 | \$1,065     | Spanion                         | 2009 |
| Pisillo, Bernie        | Bushman & Sterling LLP | Tax                      |                 |                 | \$1,065     | Workspace                       | 2009 |
| Selder, Mitchell A.    | Latham Watkins         | Bankruptcy               |                 |                 | \$1,065     | Spanion                         | 2009 |
| Stokermans, Christiaan | Allen & Overy LLP      | Corporate                |                 |                 | \$1,062     | BearingPoint                    | 2009 |
| Pohl, Timothy          | Skadden                | Bankruptcy               | Litigation      |                 | \$1,050     | Verason Energy Corporation      | 2009 |
| Leung, Thomas          | White & Case           | Bankruptcy               |                 |                 | \$1,050     | Global Safety Textiles          | 2009 |
| Mulaney, Charles W.    | Skadden                | Mergers and Acquisitions |                 |                 | \$1,060     | Hartmarx                        | 2009 |
| Rosan, Matthew A.      | Skadden                | Tax                      |                 |                 | \$1,060     | Hartmarx                        | 2009 |
| Zrinsky, Bruce         | Cadwalader             | Bankruptcy               |                 |                 | \$1,050     | TH Agriculture                  | 2009 |

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Source: Valed partners, Washington, D.C. Notes: Based on recent filings in a range of bankruptcy cases. Some lawyers may have standard hourly rates above what they charged in these cases. (See continuation.)

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## Top Billers

Top attorneys in the U.S. are asking for as much as \$1,250 an hour, according to recent court filings, significantly more than in previous years, as they take advantage of big clients willing to pay top dollar even amid the downturn. The move is contributing to price inflation across the struggling \$100 billion global corporate law firm industry, where lawyers often study rival attorney-fee filings in bankruptcy cases. See which attorneys had some of the highest-known hourly rates in 2010 and 2009. Click on column headers to sort.

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| Name                | Firm              | Practice Area 1          | Practice Area 2          | Practice Area 3   | Hourly Rate | Case Name  | Date |
|---------------------|-------------------|--------------------------|--------------------------|-------------------|-------------|--|------|
| Milmo, J. Gregory   | Skadden           | Bankruptcy               |                          |                   | \$1,050     | Interstate Bakeries  | 2009 |
| Braut, Elean        | Allen & Overy LLP | Antitrust                |                          |                   | \$1,038     | Chemura Corp.  | 2009 |
| Stroff, Neal        | Skadden           | Antitrust                |                          |                   | \$1,035     | Varasun Energy Corporation                                       | 2009 |
| Hayman, Linda C.    | Skadden           | Corporate                | Mergers and Acquisitions |                   | \$1,035     | Interstate Bakeries  | 2009 |
| Neckles, Peter J.   | Skadden           | Finance                  |                          |                   | \$1,032     | Interstate Bakeries  | 2009 |
| MacLaughlin, James  | Baker McKelvey    | Tax                      |                          |                   | \$1,029     | Microm   | 2009 |
| Keck, Colleen       | Allen & Overy LLP | Corporate                | Intellectual Property    |                   | \$1,028     | BearingPoint   | 2009 |
| Kelther, Eileen     | Allen & Overy LLP | Mergers and Acquisitions |                          |                   | \$1,028     | BearingPoint   | 2009 |
| Fujita, Francisc    | Vinson & Elkins   | Capital Markets          | Energy                   | International Law | \$1,028     | MPF Holding US LLC and Official Committee Of Unsecured Creditors | 2009 |
| Reyman, David       | Skadden           | Tax                      |                          |                   | \$1,026     | Mark IV Industries   | 2009 |
| Davenport II, Kirk  | Latham Watkins    | Capital Markets          |                          |                   | \$1,025     | Dayton Superior  | 2009 |
| Clayton, Lewis      | Paul Weiss        | Intellectual Property    |                          |                   | \$1,025     | Tronox   | 2009 |
| Fisch, Peter        | Paul Weiss        | Real Estate              |                          |                   | \$1,025     | Tronox   | 2009 |
| Kornberg, Alan      | Paul Weiss        | Bankruptcy               |                          |                   | \$1,025     | Tronox   | 2009 |
| Schimek, Terry      | Paul Weiss        | Finance                  |                          |                   | \$1,025     | Tronox   | 2009 |
| Smith, Mark         | Skadden           | Corporate                |                          |                   | \$1,013     | Mark IV Industries   | 2009 |
| Hyde, Mark          | Clifford Chance   | Bankruptcy               |                          |                   | \$1,000     | Lyondell Chemical Company  | 2009 |
| Butlers, James      | Clifford Chance   | Mergers and Acquisitions |                          |                   | \$1,000     | Lyondell Chemical Company  | 2009 |
| Safirstein, Jeffrey | Paul Weiss        | Bankruptcy               |                          |                   | \$1,000     | Samsonite Company  | 2009 |
| Meyerson, Lee       | Simpson Thacher   | Capital Markets          | Mergers and Acquisitions |                   | \$1,000     | Washington Mutual  | 2009 |
| Finley, John        | Simpson Thacher   | Mergers and Acquisitions |                          |                   | \$1,000     | Lehman Brothers Holding Inc                                      | 2009 |
| Gover, Alan         | White & Case      | Bankruptcy               |                          |                   | \$1,000     | Hospital Partners  | 2009 |

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Source: Vero's partners, Washington, D.C. Notes: Based on recent filings in a range of bankruptcy cases. Some lawyers may have standard hourly rates above what they charge in these cases.

(See correction.)

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| Name   | Title         | Practice Area                                  | Firm                             | State          | Country       | Graduated Law School | Practicing Since | 2005 Rates | 2006 Rates | 2007 Rates | 2008 Rates | 2009 Rates |
| Adelson, Elliot A.   | Partner       | Litigation                                     | Kirkland and Ellis               | CA             | United States | 1980                 | 1980             | 430        | 420        | 400        | 745        | 750        |
| Agronoff, Aaron L.   | Associate     |  | Jones Day                        | CA             | United States |                      |                  | 260        |            |            |            |            |
| Alford, Hans J.  | Associate     |  | Kirkland and Ellis               | CA             | United States |                      |                  |            |            |            |            |            |
| Baker, James P.  | Partner       | Employee Benefits and Exec Comp                | Jones Day                        | CA             | United States |                      |                  |            |            |            |            |            |
| Bass, Eric   | Associate     |  | Farella Braun and Martel         | CA             | United States | 1974                 | 1974             |            |            | 400        | 745        | 775        |
| Benavente, Peter J.  | Partner       | Business Restructuring and Reorganization      | Jones Day                        | CA             | United States |                      |                  |            |            |            |            |            |
| Berning, Scott M.  | Associate     | Business and Finance                           | Morgan Lewis and Boekus          | CA             | United States | 2007                 | 2008             |            |            |            | 595        | 345        |
| Berman, David M.   | Partner       | Commercial Litigation, Bankruptcy and Restruc. | Pacholski, Slung, Zehl and Jones | CA             | United States |                      |                  |            |            |            |            |            |
| Boroch, Martha   | Partner       | Corporate, Criminal Investigations             | Jones Day                        | CA             | United States |                      | 1996             |            |            |            |            | 725        |
| Borstein, Jeffrey  | Partner       | White Collar Crime, Commercial Litigation      | K and L Gates                    | CA             | United States |                      |                  |            | 525        | 590        |            |            |
| Brown, Donald W.   | Partner       | Business and Finance                           | Convington and Burking           | CA             | United States |                      |                  | 640        |            |            |            | 550        |
| Browning, J. Taylor  | Associate     | Tort and Environmental Litigation              | Morgan Lewis and Boekus          | CA             | United States | 1996                 | 1996             |            |            |            |            | 560        |
| Bunnicler, Brenda M.   | Partner       |  | King and Spalding                | CA             | United States |                      | 1994             |            |            |            |            |            |
| Castro, Ruth Ann   | Associate     | Environmental                                  | Farella Braun and Martel         | CA             | United States |                      |                  |            |            | 380        | 675        |            |
| Christensen, C. Murphy   | Partner       | Corporate Finance and Real Estate              | Q'Meany and Myers                | CA             | United States |                      |                  |            |            |            |            |            |
| Christman, Ryan M.   | Associate     |  | Kirkland and Ellis               | CA             | United States | 2001                 | 2001             |            |            |            |            | 525        |
| Conroy, Michelle   | Associate     | Business Restructuring and Reorganization      | Jones Day                        | CA             | United States |                      |                  |            |            |            |            | 585        |
| Cooley, Peter J.   | Executive     | Business Restructuring and Reorganization      | Jones Day                        | CA             | United States |                      |                  |            |            |            |            |            |
| Davies, Doug   | Partner       | Employment                                     | Farella Braun and Martel         | CA             | United States |                      |                  |            |            | 510        |            |            |
| Dibble, Sam  | Partner       | Business Transactions                          | Farella Braun and Martel         | CA             | United States |                      |                  |            |            | 510        |            |            |
| Dixon, Benjamin  | Partner       | Complex Commercial                             | Holler, Emswiler                 | CA             | United States |                      |                  |            |            | 282        |            |            |
| Ernst, Megan   | Associate     | Securities Litigation                          | Holler, Emswiler                 | CA             | United States |                      |                  |            |            | 573        |            |            |
| Dobryzowski, Daniel T.   | Associate     | Trial  | Jones Day                        | CA             | United States |                      |                  |            |            |            |            | 350        |
| Douglas, Scott   | Partner       | Construction                                   | Farella Braun and Martel         | CA             | United States | 2007                 | 2007             |            |            |            |            |            |
| Durr, Heather  | Associate     |  | DLA Piper                        | CA             | United States |                      |                  |            |            | 525        |            | 425        |



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|------------------------|------------|---------------------------------|--|---------------|-------|---------------|----------------------|------------------|-----------|-----------|-----------|-----------|
| Espin, Charlotte C.    | Associate  | Trial                           | Jones Day                                  | San Francisco | CA    | United States | 2006                 | 2008             | 665       | 775       | 325       |           |
| Eisenbach, Robert L.   | Partner    | Bankruptcy and Restructuring    | Cookley Godward Konish Morrison and Fowler | San Francisco | CA    | United States | 2006                 | 2008             | 665       | 775       | 325       |           |
| Engel, G. Lairy        | Partner    | Bankruptcy and Restructuring    | Morrison and Fowler                        | San Francisco | CA    | United States | 2006                 | 2008             | 665       | 775       | 325       |           |
| Esperanza, Chysty      | Associate  | Labor and Employment            | Farella Braun and Martel                   | San Francisco | CA    | United States | 1975                 | 1975             | 330       | 540       | 515       | 535       |
| Ford, Robert           | Partner    | Bankruptcy and Restructuring    | DLA Piper                                  | San Francisco | CA    | United States | 1975                 | 1975             | 330       | 540       | 515       | 535       |
| Frank, Michael T.      | Partner    | Bankruptcy and Restructuring    | DLA Piper                                  | San Francisco | CA    | United States | 1975                 | 1975             | 330       | 540       | 515       | 535       |
| Freid, Joshua M.       | Partner    | Bankruptcy and Restructuring    | DLA Piper                                  | San Francisco | CA    | United States | 1975                 | 1975             | 330       | 540       | 515       | 535       |
| Franchick, John E.     | Partner    | Bankruptcy and Restructuring    | DLA Piper                                  | San Francisco | CA    | United States | 1975                 | 1975             | 330       | 540       | 515       | 535       |
| Gannett, Benjamin P.   | Associate  | Bankruptcy and Restructuring    | DLA Piper                                  | San Francisco | CA    | United States | 1975                 | 1975             | 330       | 540       | 515       | 535       |
| Gerding, Tyler         | Associate  | Bankruptcy and Restructuring    | DLA Piper                                  | San Francisco | CA    | United States | 1975                 | 1975             | 330       | 540       | 515       | 535       |
| Gloster, Dean          | Partner    | Bankruptcy and Creditors Rights | Farella Braun and Martel                   | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Grother, Neil          | Partner    | Bankruptcy and Creditors Rights | Farella Braun and Martel                   | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Guono, John            | Partner    | Insurance Coverage              | Farella Braun and Martel                   | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Hall, Dan              | Partner    | Bankruptcy and Creditors Rights | Farella Braun and Martel                   | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Halt, Daniel           | Associate  | Bankruptcy and Creditors Rights | Farella Braun and Martel                   | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Hodkin, Frederick D.   | Partner    | Bankruptcy and Creditors Rights | Farella Braun and Martel                   | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Huntley, Lynn M.       | Of Counsel | Litigation                      | Drick, Hemington and Sutcliffe             | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Jin, Nancy             | Associate  | Business Litigation             | Drick, Hemington and Sutcliffe             | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Joslin, Nan            | Partner    | Business Litigation             | Drick, Hemington and Sutcliffe             | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Karabin, Scott D.      | Partner    | Business Litigation             | Drick, Hemington and Sutcliffe             | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Krause, Christopher W. | Associate  | Business Litigation             | Drick, Hemington and Sutcliffe             | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Kalik, Tobias S.       | Partner    | Business Litigation             | Drick, Hemington and Sutcliffe             | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Kim, Nancy             | Associate  | Business Litigation             | Drick, Hemington and Sutcliffe             | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Konover, Curt          | Partner    | Business Litigation             | Drick, Hemington and Sutcliffe             | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |
| Kordstein, Sam         | Partner    | Business Litigation             | Drick, Hemington and Sutcliffe             | San Francisco | CA    | United States | 2006                 | 2006             | 355       | 355       | 375       | 375       |

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| Lauksh, Justin   | Counsel              | Corporate Finance                 | OMelveny and Myers                         | San Francisco  | CA          | United States    | 1997                 |
| Marshall, Robert G.  | Partner              | Employee Benefits and ERISA       | Jones Day                                  | San Francisco  | CA          | United States    | 1997                 |
| Mason, Dory  | Associate Partner    | Restructuring and Insolvency      | Fawcett Braun and Martel Weston and Stovew | San Francisco  | CA          | United States    | 1997                 |
| McDonald, Brian D.   | Associate Partner    | Trial Practice                    | Jones Day                                  | San Francisco  | CA          | United States    | 2002                 |
| McKinn, Mark E.  | Partner              | Business and Finance              | Kirkland and Ellis                         | San Francisco  | CA          | United States    | 1893                 |
| Myers, William A.  | Partner              | Insurance Liability and Recovery  | Morgan Lewis and Boekus Jones Day          | San Francisco  | CA          | United States    | 1887                 |
| Myers, Martin H.   | Partner              | Recovery                          | Jones Day                                  | San Francisco  | CA          | United States    | 1893                 |
| Nages, Adhi  | Associate            | Banking and Finance               | Fawcett Braun and Martel                   | San Francisco  | CA          | United States    | 2002                 |
| Nikas, Casey M.  | Associate            | Banking and Finance               | Kirkland and Ellis                         | San Francisco  | CA          | United States    | 1979                 |
| Olson, James C.  | Partner              | Labor and Employment              | Jones Day                                  | San Francisco  | CA          | United States    | 1979                 |
| Oso, Amanda M.   | Associate            | Banking and Finance               | Jones Day                                  | San Francisco  | CA          | United States    | 1979                 |
| Osgood, Michael C.E.   | Associate            | Labor and Employment              | Kirkland and Ellis                         | San Francisco  | CA          | United States    | 1979                 |
| Palton, Katie  | Associate            | Labor and Employment              | Kirkland and Ellis                         | San Francisco  | CA          | United States    | 1979                 |
| Parsons, Karen H.  | Associate Of Counsel | Labor and Employment              | McGowan Lewis and Myers                    | San Francisco  | CA          | United States    | 1979                 |
| Potbeck, Thomas R.   | Partner              | California Employment             | Morgan Lewis and Boekus                    | San Francisco  | CA          | United States    | 1979                 |
| Potter, Alex   | Associate            | Copyrighting                      | Paul Hastings Janofsky and Walker          | San Francisco  | CA          | United States    | 1979                 |
| Rapagosa, Ramiro   | Associate            | Corporate                         | Paul Hastings Janofsky and Walker          | San Francisco  | CA          | United States    | 2008                 |
| Rachy, Katherine S.  | Partner              | Corporate                         | Paul Hastings Janofsky and Walker          | San Francisco  | CA          | United States    | 2008                 |
| Ritter, Peter  | Partner              | Trial Practice                    | Jones Day                                  | San Francisco  | CA          | United States    | 1969                 |
| Roche, Laura   | Associate            | Business Tax and Investment Funds | OMelveny and Myers                         | San Francisco  | CA          | United States    | 1969                 |
| Rodriguez, Noel  | Associate            | Business Tax and Investment Funds | OMelveny and Myers                         | San Francisco  | CA          | United States    | 1969                 |
| Sabnis, Cheryl   | Counsel              | Trial Practice                    | Jones Day                                  | San Francisco  | CA          | United States    | 2003                 |
| Schickert, Vladimir  | Partner              | Tort and Environmental Litigation | Fawcett Braun and Martel                   | San Francisco  | CA          | United States    | 2003                 |
| Selling, Jocelyn   | Of Counsel           | Private Clients                   | King and Spalding                          | San Francisco  | CA          | United States    | 1998                 |
|  |                      | Family Wealth Group               | Fawcett Braun and Martel                   | San Francisco  | CA          | United States    | 1998                 |

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| Shepard, Michael           | Associate              | Securities Litigation                     | Heber Eisen                         | San Francisco | CA    | United States | 2008                 | 2008             | 750        |            |            | 760        |            |
| Shin, Susan                | Associate              | Labor and Employment                      | Heber Eisen                         | San Francisco | CA    | United States | 2008                 | 2008             | 260        |            |            | 325        | 390        |
| Sponner, Leah              | Associate              | Commercial Litigation                     | K. and L. Gates                     | San Francisco | CA    | United States | 2003                 | 2003             | 430        |            |            | 410        | 395        |
| Stoyars, Eric              | Associate              | Business Transactions                     | King Spink                          | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Stewart, Rhonda L.         | Associate              | Business Transactions                     | King Spink                          | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Thaler, Alexandra (Sister) | Associate              | Litigation                                | King Spink                          | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Thompson, Brent            | Associate              | Labor and Employment                      | King Spink                          | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Topnik, Christie D.        | Associate              | Tax                                       | King Spink                          | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Trepert, Hollen            | Associate              | Business Restructuring and Reorganization | Paul, Hastings, Janofsky and Walker | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Trodels, Robert A.         | Partner                | Finance, Corporate and Bankruptcy         | Paul, Hastings, Janofsky and Walker | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Ulland, Suzanne            | Partner                | Finance, Corporate and Bankruptcy         | Paul, Hastings, Janofsky and Walker | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Vogt, Gary W.              | Senior Legal Assistant | Litigation                                | Paul, Hastings, Janofsky and Walker | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Wagener, Kristine          | Associate              | Business Transactions                     | Paul, Hastings, Janofsky and Walker | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Wall, Gregory A.           | Senior Attorney        | Labor and Employment                      | Paul, Hastings, Janofsky and Walker | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Wessels, Kelly             | Associate              | Litigation                                | Paul, Hastings, Janofsky and Walker | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Whalen, Joe                | Partner                | Insurance and Risk Management             | Paul, Hastings, Janofsky and Walker | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Wink, Jack L.              | Associate              | Business Transactions                     | Paul, Hastings, Janofsky and Walker | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Wilson, Nicholas           | Counsel                | Business Transactions                     | Paul, Hastings, Janofsky and Walker | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Woodruff, Kelly            | Partner                | Business Transactions                     | Paul, Hastings, Janofsky and Walker | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |
| Zwibelman, Michael         | Partner                | Business Transactions                     | Paul, Hastings, Janofsky and Walker | San Francisco | CA    | United States |                      |                  |            |            |            |            |            |

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**LEGAL BILLING REPORT**

VOLUME 11, NUMBER 1

May 2009

**BY BILLING RATE**

California Rate Report

| PROFESSIONAL           | FIRM   | GRADUATED | ADMITTED | STATE | RATE      | HOURS  | TOTAL      |
|------------------------|--|-----------|----------|-------|-----------|--------|------------|
| P Kelly, Jr., Daniel   | Davis Polk & Wardwell (CA)                         | 1986      | 1986     | CA    | \$ 900.00 | 4.50   | 4,320.00   |
| P Condes, Julia        | Davis Polk & Wardwell (CA)                         | 1990      | 1990     | CA    | 955.00    | 17.00  | 16,235.00  |
| P Durbin, Scott        | O'Keefe & Myers LLP (CA)                           | 1975      | 1875     | CA    | 860.00    | 1.10   | 946.00     |
| P Tuchin, Michael      | Klee, Tuchin, Bogdanoff & Stern, LLP               | 1990      | 1990     | CA    | 850.00    | 0.50   | 425.00     |
| P Balbach, Karen       | Walt, Gotschal & Mangos LLP (CA)                   | 1986      | 1986     | CA    | 799.00    | 0.80   | 639.20     |
| P Arnold, Dennis       | Gibson Dunn & Crutcher, LLP (CA)                   | 1975      | 1978     | CA    | 750.00    | 4.50   | 3,555.00   |
| OC Morris, Michael     | Hennigan Barnett & Dorman LLP                      | 1979      | 1979     | CA    | 750.00    | 65.20  | 45,652.00  |
| P Avulich, Craig       | White & Case LLP (CA)                              | 1984      | 1984     | CA    | 750.00    | 128.10 | 96,075.00  |
| P Kharasch, Ira D.     | Pachulski Stang Ziehl Young Jones & Weintraub (CA) | 1982      | 1982     | CA    | 725.00    | 2.90   | 2,175.00   |
| P Kornfeld, Alan       | Pachulski Stang Ziehl Young Jones & Weintraub (CA) | 1987      | 1987     | CA    | 725.00    | 0.80   | 580.00     |
| A Lamb, Peter          | Davis Polk & Wardwell (CA)                         | 2005      | 2005     | CA    | 680.00    | 101.40 | 69,952.00  |
| P Irving, Jeanne E.    | Hennigan Barnett & Dorman LLP                      | 1976      | 1978     | CA    | 680.00    | 18.10  | 6,869.00   |
| P Kevane, Henry        | Pachulski Stang Ziehl Young Jones & Weintraub (CA) | 1985      | 1986     | CA    | 675.00    | 19.10  | 12,892.50  |
| A Goslich, Ronald      | White & Case LLP (CA)                              | 2001      | 2001     | CA    | 665.00    | 176.20 | 117,174.00 |
| P Brown, Kenneth H.    | Pachulski Stang Ziehl Young Jones & Weintraub (CA) | 1977      | 1981     | CA    | 650.00    | 27.30  | 47,745.00  |
| P Fidler, David        | Klee, Tuchin, Bogdanoff & Stern, LLP               | 1997      | 1998     | CA    | 650.00    | 23.10  | 15,015.00  |
| P Weiskamm, Henry      | Munger Toles & Olson LLC                           | 1987      | 1987     | CA    | 650.00    | 0.50   | 328.00     |
| P Bernthal, David M.   | Pachulski Stang Ziehl Young Jones & Weintraub (CA) | 1989      | 1993     | CA    | 645.00    | 35.50  | 22,952.00  |
| P Montgomery, Cromwell | Gibson Dunn & Crutcher, LLP (CA)                   | 1997      | 1997     | CA    | 635.00    | 0.80   | 508.00     |
| P Brown, Dennis        | Munger Toles & Olson LLC                           | 1970      | 1970     | CA    | 625.00    | 17.80  | 11,125.00  |
| A Newman, Samuel       | Gibson Dunn & Crutcher, LLP (CA)                   | 2001      | 2001     | CA    | 610.00    | 13.50  | 8,235.00   |
| A Dextrahan, Shiva     | White & Case LLP (CA)                              | 2003      | 2003     | CA    | 600.00    | 183.70 | 110,220.00 |
| P Vincent, Garth       | Munger Toles & Olson LLC                           | 1988      | 1988     | CA    | 600.00    | 124.90 | 74,780.00  |
| A Scott, Malinda       | White & Case LLP (CA)                              | 2004      | 2004     | CA    | 600.00    | 20.90  | 12,540.00  |
| P Buchanan, Laura      | Klee, Tuchin, Bogdanoff & Stern, LLP               | 1991      | 1991     | CA    | 590.00    | 0.20   | 118.00     |
| A Ger Kwan-chien, B    | Walt, Gotschal & Mangos LLP (CA)                   | 2003      | 2003     | CA    | 570.00    | 28.50  | 16,530.00  |
| A Erdal, David         | Gibson Dunn & Crutcher, LLP (CA)                   | 2003      | 2003     | CA    | 570.00    | 2.50   | 1,653.00   |
| P Heintz, Jeffrey      | Munger Toles & Olson LLC                           | 1884      | 1984     | CA    | 550.00    | 35.10  | 19,305.00  |
| P Fried, Jeffrey       | Pachulski Stang Ziehl Young Jones & Weintraub (CA) | 1995      | 1995     | CA    | 535.00    | 21.40  | 11,449.00  |
| P Rutten, James        | Munger Toles & Olson LLC                           | 1997      | 1997     | CA    | 525.00    | 25.80  | 13,545.00  |
| A Morse, Joseph        | Hennigan Barnett & Dorman LLP                      | 2000      | 2000     | CA    | 505.00    | 13.10  | 6,615.50   |
| A Mahalic, Michael     | Walt, Gotschal & Mangos LLP (CA)                   | 2005      | 2005     | CA    | 500.00    | 36.50  | 18,250.00  |
| A Barsho, Melissa      | Gibson Dunn & Crutcher, LLP (CA)                   | 2006      | 2006     | CA    | 470.00    | 14.00  | 6,580.00   |
| A Liu, Leslie          | Walt, Gotschal & Mangos LLP (CA)                   | 2006      | 2006     | CA    | 465.00    | 45.90  | 21,343.50  |
| A Kauffman, Derek      | Munger Toles & Olson LLC                           | 2005      | 2005     | CA    | 450.00    | 508.30 | 228,733.00 |
| A Hochleiner, Brian    | Munger Toles & Olson LLC                           | 2002      | 2002     | CA    | 435.00    | 0.30   | 130.50     |
| A Nathan, Joseph       | Walt, Gotschal & Mangos LLP (CA)                   | 2007      | 2007     | CA    | 415.00    | 25.20  | 10,458.00  |
| A Jaspser, M. Lance    | Munger Toles & Olson LLC                           | 2006      | 2006     | CA    | 400.00    | 96.20  | 38,480.00  |
| A Estandart, Barney    | Munger Toles & Olson LLC                           | 2006      | 2006     | CA    | 400.00    | 8.80   | 3,520.00   |
| A Rubin, Erendira E.   | O'Melveny & Myers LLP (CA)                         | 2006      | 2006     | CA    | 395.00    | 9.40   | 3,718.00   |

California Rate Report

| PROFESSIONAL          | FIRM   | GRADUATED | ADMITTED | STATE | RATE      | HOURS | TOTAL    |
|-----------------------|--|-----------|----------|-------|-----------|-------|----------|
| A. Schneider, Bradley | Munger, Tolles & Olson LLC                         | 2004      | 2004     | CA    | \$ 385.00 | 1.30  | 513.50   |
| A. Reaven, Matthew    | Wells, Goltsbel & Marges LLP (CA)                  | 2008      | 2008     | CA    | 355.00    | 13.50 | 4,792.50 |
| A. Guzman, Tanya      | O'Melvaney & Myers LLP (CA)                        | 2007      | 2007     | CA    | 330.00    | 2.30  | 828.00   |
| PP Neglia, Ross       | O'Melvaney & Myers LLP (CA)                        |           |          |       | 260.00    | 6.20  | 1,612.00 |
| Finatison, Katha      | Pachulski Slang Zieni Young Jones & Weintraub (CA) |           |          |       | 225.00    | 27.50 | 6,210.00 |
| Jeffries, Patricia J. | Pachulski Slang Zieni Young Jones & Weintraub (CA) |           |          |       | 225.00    | 0.40  | 90.00    |
| PP Fearson, Sandra    | Klein, Tucka, Boddanoff & Stern, LLP               |           |          | CA    | 215.00    | 1.90  | 408.50   |
| PP Floyd, Kevin       | Hennigan Bennett & Dorman LLP                      |           |          |       | 210.00    | 0.30  | 63.00    |
| PP Krojts, Cheryl     | Pachulski Slang Zieni Young Jones & Weintraub (CA) |           |          |       | 205.00    | 2.20  | 451.00   |
| CMA Pittman, Sherrie  | Pachulski Slang Zieni Young Jones & Weintraub (CA) |           |          |       | 125.00    | 2.50  | 325.00   |

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**LEGAL BILLING REPORT**

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**BY BILLING RATE**

California rate Report

| PROFESSIONAL           | FIRM   | GRADUATED | ADMITTED | STATE | RATE      | HOURS  | TOTAL      |
|------------------------|--|-----------|----------|-------|-----------|--------|------------|
| P Tolles, Stephen L.   | Gibson Dunn & Crutcher, LLP (CA)                   | 1982      | 1982     | CA    | \$ 860.00 | 0.10   | \$ 86.00   |
| P Patterson, Thomas    | Klea Tuchin, Bogdanoff & Stern, LLP                | 1994      | 1994     | CA    | 830.00    | 223.00 | 191,250.00 |
| P Tuchin, Michael      | Klea Tuchin, Bogdanoff & Stern, LLP                | 1990      | 1990     | CA    | 850.00    | 74.40  | 63,240.00  |
| P Stern, David         | Klea Tuchin, Bogdanoff & Stern, LLP                | 1975      | 1975     | CA    | 850.00    | 32.80  | 27,960.00  |
| P Issler, Paul S.      | Gibson Dunn & Crutcher, LLP (CA)                   | 1986      | 1986     | CA    | 840.00    | 6.35   | 5,334.00   |
| P Arnold, Dennis       | Gibson Dunn & Crutcher, LLP (CA)                   | 1975      | 1976     | CA    | 844.00    | 4.10   | 3,444.00   |
| P Thompson, Brian      | Quinn Emanuel Urquhart Oliver & Hedges, LLP        | 1991      | 1991     | CA    | 820.00    | 72.80  | 59,696.00  |
| P Balcer, Karen        | Well, Gotshal & Manges, LLP (CA)                   | 1986      | 1986     | CA    | 810.00    | 40.40  | 32,724.00  |
| P Zisli, Dean A.       | Pachulski Stern Zisli Young Jones & Weintraub (CA) | 1978      | 1978     | CA    | 795.00    | 20.30  | 16,138.50  |
| P Gilmer, Danielle     | Quinn Emanuel Urquhart Oliver & Hedges, LLP        | 1993      | 1994     | CA    | 775.00    | 9.50   | 7,362.50   |
| P Averch, Craig        | White & Case LLP (CA)                              | 1984      | 1984     | CA    | 750.00    | 189.20 | 141,900.00 |
| P Keller, Tobias       | White & Case LLP (CA)                              | 1984      | 1980     | CA    | 750.00    | 1.90   | 1,425.00   |
| P Baker, James         | White & Case LLP (CA)                              | 1980      | 1980     | CA    | 750.00    | 0.20   | 150.00     |
| P Winston, Eric D.     | Quinn Emanuel Urquhart Oliver & Hedges, LLP        | 1999      | 1999     | CA    | 740.00    | 7.10   | 5,254.00   |
| P Orr, Johanna Y.      | Quinn Emanuel Urquhart Oliver & Hedges, LLP        | 1997      | 1997     | CA    | 740.00    | 6.30   | 4,662.00   |
| P Kornfeld, Alan       | Pachulski Stern Zisli Young Jones & Weintraub (CA) | 1987      | 1987     | CA    | 725.00    | 10.10  | 7,322.50   |
| P Blort, Jeffrey E.    | Sidley Austin Brown & Wood LLP (CA)                | 1997      | 1998     | CA    | 700.00    | 110.90 | 77,630.00  |
| P Myers, Martin        | White & Case LLP (CA)                              | 1987      | 1987     | CA    | 700.00    | 28.50  | 19,850.00  |
| P Grassowen, Debra L.  | Pachulski Stern Zisli Young Jones & Weintraub (CA) | 1991      | 1992     | CA    | 695.00    | 5.50   | 3,822.50   |
| P Gustafson, Mark E.   | White & Case LLP (CA)                              | 1998      | 1998     | CA    | 685.00    | 117.70 | 80,824.50  |
| P Arash, Dora          | Gibson Dunn & Crutcher, LLP (CA)                   | 1995      | 1995     | CA    | 675.00    | 39.40  | 26,595.00  |
| A Gorski, Ronald       | White & Case LLP (CA)                              | 2001      | 2001     | CA    | 665.00    | 271.50 | 147,297.50 |
| P Montgomery, Cromwell | Gibson Dunn & Crutcher, LLP (CA)                   | 1997      | 1997     | CA    | 635.00    | 2.50   | 1,587.50   |
| A Newman, Samuel       | Gibson Dunn & Crutcher, LLP (CA)                   | 2001      | 2001     | CA    | 610.00    | 11.50  | 7,015.00   |
| A Derahim, Shiva       | White & Case LLP (CA)                              | 2003      | 2003     | CA    | 600.00    | 217.50 | 130,500.00 |
| A Scott, Melanie       | White & Case LLP (CA)                              | 2004      | 2004     | CA    | 800.00    | 74.90  | 44,940.00  |
| P Trudell, Robert      | White & Case LLP (CA)                              | 1995      | 1995     | CA    | 600.00    | 35.30  | 21,180.00  |
| A Ger Kwang-chlon, B.  | Well, Gotshal & Manges, LLP (CA)                   | 2003      | 2003     | CA    | 580.00    | 54.20  | 31,436.00  |
| OC Matcail, Brian      | Klea, Tuchin, Bogdanoff & Stern, LLP               | 1998      | 1999     | CA    | 575.00    | 12.40  | 7,130.00   |
| A Egoff, David         | Gibson Dunn & Crutcher, LLP (CA)                   | 2003      | 2003     | CA    | 570.00    | 0.50   | 285.00     |
| C Crosby IV, Peter     | White & Case LLP (CA)                              | 1984      | 1984     | CA    | 565.00    | 13.30  | 7,514.50   |
| A Martin, Jill         | White & Case LLP (CA)                              | 2006      | 2006     | CA    | 550.00    | 45.80  | 25,180.00  |
| A Correa, Christine    | White & Case LLP (CA)                              | 2001      | 2001     | CA    | 525.00    | 1.70   | 892.50     |
| OC Brandt, Gina F.     | Pachulski Stern Zisli Young Jones & Weintraub (CA) | 1976      | 1976     | CA    | 525.00    | 1.30   | 682.50     |
| A Malefic, Michael     | Well, Gotshal & Manges, LLP (CA)                   | 2005      | 2005     | CA    | 500.00    | 175.30 | 87,650.00  |
| A Rodriguez, Noel      | White & Case LLP (CA)                              | 2003      | 2003     | CA    | 500.00    | 41.80  | 20,900.00  |
| A Heyn, Matthew        | Klea, Tuchin, Bogdanoff & Stern, LLP               | 2003      | 2003     | CA    | 495.00    | 111.80 | 55,341.00  |
| A Barstow, Melissa     | Gibson Dunn & Crutcher, LLP (CA)                   | 2006      | 2006     | CA    | 470.00    | 4.10   | 1,927.00   |
| A Liu, Leslie          | Well, Gotshal & Manges, LLP (CA)                   | 2006      | 2006     | CA    | 465.00    | 302.70 | 140,755.50 |
| A Chun, Sebyul         | White & Case LLP (CA)                              | 2008      | 2008     | CA    | 460.00    | 162.10 | 74,565.00  |

California rate Report

| PROFESSIONAL             | FIRM   | GRADUATED | ADMITTED | STATE | RATE   | HOURS  | TOTAL      |
|--------------------------|--|-----------|----------|-------|--------|--------|------------|
|                          |  |           |          |       | \$     |        | \$         |
| A Morrison, Kelley M     | White & Case LLP (CA)                              | 2008      | 2008     | CA    | 460.00 | 105.50 | 48,530.00  |
| A Hawk, Jonathan         | White & Case LLP (CA)                              | 2007      | 2007     | CA    | 460.00 | 20.30  | 9,338.00   |
| P Phillip, Laurence      | Mckenna Long & Aldridge LLP (CA)                   | 1997      | 1997     | CA    | 450.00 | 15.00  | 6,750.00   |
| P Larsen, J David        | Mckenna Long & Aldridge LLP (CA)                   | 1997      | 1997     | CA    | 450.00 | 10.00  | 4,500.00   |
| A Guest, David           | Klea, Tuchin, Bogdanoff & Stern, LLP               | 2005      | 2005     | CA    | 430.00 | 366.70 | 157,881.00 |
| A Pczmanier, Courtney    | Klea, Tuchin, Bogdanoff & Stern, LLP               | 2005      | 2005     | CA    | 430.00 | 23.29  | 9,976.00   |
| A Dickerson, Matthew     | Sidley Austin Brown & Wood LLP (CA)                | 2007      | 2007     | CA    | 425.00 | 25.30  | 10,752.50  |
| A Tran, William          | Sidley Austin Brown & Wood LLP (CA)                | 2006      | 2006     | CA    | 425.00 | 5.40   | 2,295.00   |
| A Nathan, Joseph         | Well, Golsthal & Manes LLP (CA)                    | 2007      | 2007     | CA    | 415.00 | 61.50  | 25,522.50  |
| A Whitson, Lorna S.      | Gibson Dunn & Crutcher, LLP (CA)                   | 2008      | 2008     | CA    | 400.00 | 4.00   | 1,600.00   |
| A Dearlhan, Kevin        | Gibson Dunn & Crutcher, LLP (CA)                   | 2008      | 2008     | CA    | 375.00 | 49.30  | 18,487.50  |
| A Simonds, Ariella       | Klea, Tuchin, Bogdanoff & Stern, LLP               | 2008      | 2008     | CA    | 300.00 | 4.70   | 1,410.00   |
| A Elliot, Kerin          | Klea, Tuchin, Bogdanoff & Stern, LLP               | 2008      | 2008     | CA    | 300.00 | 2.10   | 630.00     |
| LIB Forrester, Leslie A. | Pachulski Stang Ziehl Young Jones & Weintraub (CA) |           |          |       | 250.00 | 4.30   | 1,225.00   |
| PP Haris, Denise A.      | Pachulski Stang Ziehl Young Jones & Weintraub (CA) |           |          |       | 225.00 | 8.50   | 1,912.50   |
| PP Graciano, Michelle    | Mckenna Long & Aldridge LLP (CA)                   |           |          |       | 215.00 | 40.60  | 8,729.00   |
| PP Pearson, Sandra       | Klea, Tuchin, Bogdanoff & Stern, LLP               |           |          | CA    | 215.00 | 36.00  | 7,740.00   |
| PP Brown, Thomas J.      | Pachulski Stang Ziehl Young Jones & Weintraub (CA) |           |          |       | 195.00 | 2.00   | 390.00     |
| LIB James, Carla H.      | Gibson Dunn & Crutcher, LLP (CA)                   |           |          |       | 165.00 | 0.50   | 82.50      |

**Westlaw CourtExpress**

**LEGAL BILLING REPORT**

VOLUME 11, NUMBER 3

December 2009

**BY BILLING RATE**

California Rate Report

| PROFESSIONAL             | FIRM  | GRADUATED | ADMITTED | STATE | RATE      | HOURS  | TOTAL         |
|--------------------------|---|-----------|----------|-------|-----------|--------|---------------|
| P Pachulski, Richard M.  | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1978      | 1979     | CA    | \$ 885.00 | 287.62 | \$ 257,419.90 |
| P Patterson, Thomas      | Klee, Tuchin, Bogdanoff & Stern, LLP              | 1994      | 1994     | CA    | 850.00    | 382.60 | 333,710.00    |
| P Teshin, Nicholas       | Klee, Tuchin, Bogdanoff & Stern, LLP              | 1990      | 1990     | CA    | 850.00    | 201.40 | 171,190.00    |
| P Stiem, David           | Klee, Tuchin, Bogdanoff & Stern, LLP              | 1975      | 1975     | CA    | 850.00    | 84.80  | 58,480.00     |
| P Pachulski, Richard M.  | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1979      | 1979     | CA    | 850.00    | 68.00  | 57,800.00     |
| P Arnold, Dennis         | Gibson Dunn & Crutcher, LLP (CA)                  | 1975      | 1976     | CA    | 840.00    | 1.00   | 840.00        |
| P Ziehl, Dean A.         | Quinn Emanuel Urquhart Oliver & Hedges, LLP       | 1978      | 1978     | CA    | 825.00    | 258.75 | 211,405.25    |
| P Timmons, Brian         | Quinn Emanuel Urquhart Oliver & Hedges, LLP       | 1991      | 1991     | CA    | 820.00    | 240.60 | 197,282.00    |
| P Lyons, Dennis          | Quinn Emanuel Urquhart Oliver & Hedges, LLP       | 1886      | 1988     | CA    | 820.00    | 80.20  | 65,764.00     |
| P Orgel, Robert B.       | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1981      | 1981     | CA    | 795.00    | 357.30 | 284,053.50    |
| P Richards, Jeremy       | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1980      | 1981     | CA    | 795.00    | 158.50 | 126,007.50    |
| P Zehn, Dean A.          | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1978      | 1978     | CA    | 795.00    | 94.00  | 74,730.00     |
| P Zehn, Dean A.          | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1978      | 1978     | CA    | 785.00    | 20.30  | 16,136.50     |
| P Winston, Eric D.       | Quinn Emanuel Urquhart Oliver & Hedges, LLP       | 1999      | 1999     | CA    | 740.00    | 54.00  | 39,980.00     |
| P Ong, Johanna Y.        | Quinn Emanuel Urquhart Oliver & Hedges, LLP       | 1997      | 1997     | CA    | 740.00    | 11.20  | 8,288.00      |
| P Kornfeld, Alan         | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1987      | 1987     | CA    | 725.00    | 10.10  | 7,322.50      |
| P Grassmann, Deborah I.  | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1991      | 1992     | CA    | 695.00    | 6.50   | 3,822.50      |
| P Galina, Andrew         | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1983      | 1983     | CA    | 685.00    | 3.40   | 2,363.00      |
| P Parker, Daryl          | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1968      | 1970     | CA    | 675.00    | 60.80  | 41,040.00     |
| P Mahoney, James         | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1968      | 1967     | CA    | 675.00    | 16.60  | 11,205.00     |
| P Arash, Dora            | Gibson Dunn & Crutcher, LLP (CA)                  | 1995      | 1995     | CA    | 675.00    | 14.80  | 9,990.00      |
| P Davids, Roman          | Klee, Tuchin, Bogdanoff & Stern, LLP              | 1985      | 1985     | CA    | 650.00    | 1.40   | 910.00        |
| A Newman, Samuel         | Gibson Dunn & Crutcher, LLP (CA)                  | 2001      | 2001     | CA    | 610.00    | 3.70   | 2,287.00      |
| C Hochman, Harry         | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1987      | 1987     | CA    | 585.00    | 100.80 | 59,976.00     |
| A Newmark, Victoria      | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1986      | 1997     | CA    | 595.00    | 32.50  | 18,337.50     |
| C Cho, Shady             | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1987      | 1987     | CA    | 595.00    | 19.40  | 11,503.00     |
| C Hochman, Harry         | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1987      | 1987     | CA    | 575.00    | 57.60  | 33,120.00     |
| A Dirckman, Jennifer     | Klee, Tuchin, Bogdanoff & Stern, LLP              | 1989      | 1989     | CA    | 575.00    | 1.40   | 802.50        |
| OC Metcalf, Brian        | Klee, Tuchin, Bogdanoff & Stern, LLP              | 1999      | 1999     | CA    | 575.00    | 0.70   | 402.50        |
| A Heyn, Wayne            | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1976      | 1976     | CA    | 525.00    | 1.30   | 682.50        |
| P Brown, Glenn           | Klee, Tuchin, Bogdanoff & Stern, LLP              | 2003      | 2003     | CA    | 495.00    | 109.70 | 54,301.50     |
| A Barstow, Melissa       | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 1989      | 1989     | CA    | 495.00    | 0.50   | 247.50        |
| A Liu, Leslie            | Gibson Dunn & Crutcher, LLP (CA)                  | 2006      | 2006     | CA    | 485.00    | 9.80   | 4,557.00      |
| P Phelan, Laurence       | Wyll, Gelshtel & Maloney, LLP (CA)                | 1997      | 1997     | CA    | 450.00    | 2.70   | 1,215.00      |
| A Guass, David           | Mckenna Long & Ashrade, LLP (CA)                  | 2005      | 2005     | CA    | 430.00    | 402.90 | 173,247.00    |
| PP Santos, Joseph C      | Quinn Emanuel Urquhart Oliver & Hedges, LLP       | 2008      | 2008     | CA    | 380.00    | 4.60   | 1,748.00      |
| A Elliot, Koim           | Klee, Tuchin, Bogdanoff & Stern, LLP              | 2008      | 2008     | CA    | 300.00    | 16.60  | 4,980.00      |
| PP Lacroix, Maurice      | Quinn Emanuel Urquhart Oliver & Hedges, LLP       | 2000      | 2000     | CA    | 250.00    | 20.30  | 5,075.00      |
| LIB Fornaster, Leslie A. | Pachulski Stang Zehn Young Jones & Weintraub (CA) | 2008      | 2008     | CA    | 250.00    | 4.90   | 1,225.00      |

California Rate Report

| PROFESSIONAL             | FIRM   | GRADUATED | ADMITTED | STATE | RATE      | HOURS | TOTAL     |
|--------------------------|--|-----------|----------|-------|-----------|-------|-----------|
| LIg Farnesier, Leslie A. | Pachniski Slang Ziehl Young Jones & Weintraub (CA) |           |          |       | \$ 250.00 | 1.80  | 450.00    |
| PP Harris, Denise A.     | Pachniski Slang Ziehl Young Jones & Weintraub (CA) |           |          |       | 225.00    | 47.80 | 10,777.50 |
| PP Harris, Denise A.     | Pachniski Slang Ziehl Young Jones & Weintraub (CA) |           |          |       | 225.00    | 8.50  | 1,912.50  |
| PP Hamblen, Felice       | Pachniski Slang Ziehl Young Jones & Weintraub (CA) |           |          |       | 225.00    | 0.40  | 90.00     |
| PP Gyncerfer, Michelle   | Mckenna Long & Aldridge LLP (CA)                   |           |          |       | 215.00    | 60.40 | 12,986.00 |
| PP Brown, Thomas J.      | Klaas, Tuchin, Bogdanoff & Stern, LLP              |           |          |       | 215.00    | 57.40 | 11,268.00 |
| PP Matoso, Mike          | Pachniski Slang Ziehl Young Jones & Weintraub (CA) |           |          |       | 195.00    | 59.75 | 11,651.25 |
| PP Brown, Thomas J.      | Pachniski Slang Ziehl Young Jones & Weintraub (CA) |           |          |       | 195.00    | 6.00  | 1,170.00  |
| PP Matoso, Mike          | Pachniski Slang Ziehl Young Jones & Weintraub (CA) |           |          |       | 195.00    | 2.00  | 390.00    |
| US Ewenheart, Christine  | Mckenna Long & Aldridge LLP (CA)                   |           |          |       | 180.00    | 3.00  | 540.00    |
| PP Sahn, Andrew          | Pachniski Slang Ziehl Young Jones & Weintraub (CA) |           |          |       | 150.00    | 16.80 | 2,535.00  |
| PP Bass, John            | Pachniski Slang Ziehl Young Jones & Weintraub (CA) |           |          |       | 150.00    | 0.80  | 120.00    |





**2010 NLJ Billing Survey**

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| Fiscal Year | Firm Name                                      | Location          | Firmwide Average | Partner High | Partner Low | Partner Average | Associate High | Associate Low | Associate Average |
|-------------|--|-------------------|------------------|--------------|-------------|-----------------|----------------|---------------|-------------------|
| 2010        | Adams and Reese                                | New Orleans       | \$265            | \$550        | \$250       | \$344           | \$290          | \$195         | \$229             |
| 2010        | Akerman Senterfitt                             | Miami             |                  |              |             |                 |                |               |                   |
| 2010        | Akin Gump Strauss Hauer & Field                | Washington        |                  |              |             |                 |                |               |                   |
| 2010        | Allen Matkins Lack                             | Los Angeles       |                  |              |             |                 |                |               |                   |
| 2010        | Gamble Malloy & Natisis                        | Atlanta           | \$515            | \$865        | \$450       | \$627           | \$590          | \$270         | \$405             |
| 2010        | Alston & Bird                                  | Houston           |                  |              |             |                 |                |               |                   |
| 2010        | Andrews Kurth                                  | Haddonfield, NJ   |                  | \$560        | \$305       |                 | \$340          | \$175         |                   |
| 2010        | Archer & Greiner                               |                   |                  |              |             |                 |                |               |                   |
| 2010        | Arent Fox                                      | Washington        |                  | \$765        | \$400       |                 | \$475          | \$240         |                   |
| 2010        | Armstrong Teasdale                             | St. Louis         |                  | \$475        | \$300       |                 | \$325          | \$200         |                   |
| 2010        | Arnold & Porter                                | Washington        |                  |              |             |                 |                |               |                   |
| 2010        | Baker & Daniels                                | Indianapolis      |                  |              |             |                 |                |               |                   |
| 2010        | Baker & Hostetler                              | Cleveland         |                  |              |             |                 |                |               |                   |
| 2010        | Baker Botts L.L.P.                             | Houston           |                  |              |             |                 |                |               |                   |
| 2010        | Baker, Donelson, Bearman, Caldwell & Berkowitz | Memphis, TN       | \$312            | \$595        | \$255       | \$357           | \$320          | \$165         | \$231             |
| 2010        | Ballard Spahr                                  | Philadelphia      |                  |              |             |                 |                |               |                   |
| 2010        | Barnes & Thornburg                             | Indianapolis      | \$367            | \$613        | \$298       | \$416           | \$355          | \$225         | \$261             |
| 2010        | Bass, Berry & Sims                             | Nashville, TN     |                  |              |             |                 |                |               |                   |
| 2010        | Benesch, Friedlander, Coplan & Aronoff         | Cleveland         | \$315            | \$575        | \$350       | \$335           | \$360          | \$195         | \$245             |
| 2010        | Best Best & Krieger                            | Riverside, Calif. |                  | \$550        | \$310       |                 | \$395          | \$225         |                   |



| Fiscal Year | Firm Name                                      | Location     | Firmwide Average | Partner High | Partner Low | Partner Average | Associate High | Associate Low | Associate Average |
|-------------|--|--------------|------------------|--------------|-------------|-----------------|----------------|---------------|-------------------|
| 2010        | Dewey & Leboeuf LLP                            | New York     |                  |              |             |                 |                |               |                   |
| 2010        | Dickinson Wright                               | Detroit      |                  | \$575        | \$355       |                 | \$275          | \$195         |                   |
| 2010        | Dickstein Shapiro                              | Washington   | \$546            | \$950        | \$525       | \$656           | \$530          | \$265         | \$426             |
| 2010        | Dinsmore & Shohl                               | Cincinnati   | \$302            | \$590        | \$220       | \$360           | \$300          | \$175         | \$222             |
| 2010        | DLA Piper                                      | Chicago      |                  |              |             |                 |                |               |                   |
| 2010        | Dorsey & Whitney                               | Minneapolis  | \$410            | \$795        | \$290       | \$515           | \$440          | \$180         | \$285             |
| 2010        | Duane Morris                                   | Philadelphia | \$483            | \$850        | \$240       | \$560           | \$480          | \$135         | \$349             |
| 2010        | Dykema Gossett                                 | Detroit      | \$445            | \$635        | \$360       | \$495           | \$450          | \$225         | \$325             |
| 2010        | Eckert Seamans Chertin & Melloff               | Pittsburgh   |                  | \$625        | \$250       |                 | \$320          | \$150         |                   |
| 2010        | Edwards Angell Palmer & Dodge                  | Boston       | \$451            | \$780        | \$345       | \$571           | \$610          | \$200         | \$323             |
| 2010        | Epstein Becker & Green                         | New York     | \$429            | \$850        | \$350       | \$620           | \$450          | \$180         | \$325             |
| 2010        | Faegre & Benson LLP                            | Minneapolis  |                  |              |             |                 |                |               |                   |
| 2010        | Finnegan, Henderson, Farabow, Garrett & Dünner | Washington   |                  |              |             |                 |                |               |                   |
| 2010        | Fish & Richardson                              | Boston       |                  |              |             |                 |                |               |                   |
| 2010        | Fisher & Phillips                              | Atlanta      |                  | \$505        | \$340       |                 | \$360          | \$220         |                   |
| 2010        | Fitzpatrick, Calla, Harper & Scinto            | New York     |                  | \$730        | \$460       |                 | \$440          | \$275         |                   |
| 2010        | Foley & Lardner                                | Milwaukee    | \$554            | \$1,035      |             | \$654           |                | \$255         | \$426             |
| 2010        | Foley Hoag                                     | Boston       |                  |              |             |                 |                |               |                   |
| 2010        | Ford & Harrison                                | Atlanta      |                  | \$620        | \$375       |                 | \$390          | \$250         |                   |
| 2010        | Fowler White Boggs                             | Tampa, FL    | \$350            | \$675        | \$325       | \$400           | \$315          | \$205         | \$250             |
| 2010        | Fox Rothschild                                 | Philadelphia | \$407            | \$690        | \$315       | \$473           | \$475          | \$235         | \$298             |
| 2010        | Frost Brown Todd                               | Cincinnati   | \$279            | \$515        | \$200       | \$326           | \$250          | \$150         | \$189             |
| 2010        | Fulbright & Jaworski                           | Houston      |                  |              |             |                 |                |               |                   |
| 2010        | Gardere Wynne Sewell                           | Dallas       | \$445            | \$815        | \$380       | \$531           | \$445          | \$195         | \$311             |
| 2010        | Gibbons  | Newark, NJ   | \$404            | \$790        | \$390       | \$479           | \$450          | \$250         | \$289             |
| 2010        | Gibson, Dunn & Crutcher LLP                    | Los Angeles  |                  |              |             |                 |                |               |                   |
| 2010        | Godfrey & Kahn                                 | Milwaukee    |                  | \$495        | \$325       |                 | \$340          | \$180         |                   |
| 2010        | Goodwin Procter                                | Boston       |                  |              |             |                 |                |               |                   |

| Fiscal Year | Firm Name   | Location          | Firmwide Average | Partner High | Partner Low | Partner Average | Associate High | Associate Low | Associate Average |
|-------------|---|-------------------|------------------|--------------|-------------|-----------------|----------------|---------------|-------------------|
| 2010        | Gordon & Rees   | San Francisco, CA |                  |              |             |                 |                |               |                   |
| 2010        | GrayRobinson  | Orlando, FL       |                  | \$750        | \$225       |                 | \$315          | \$150         |                   |
| 2010        | Greenberg Traurig                                     | New York          | \$453            | \$875        | \$355       | \$550           | \$610          | \$200         | \$332             |
| 2010        | Harris Beach  | Rochester, NY     |                  | \$500        | \$275       |                 | \$250          | \$140         |                   |
| 2010        | Haynes and Boone                                      | Dallas            |                  |              |             |                 |                |               |                   |
| 2010        | Hinshaw & Culbertson                                  | Chicago           |                  |              |             |                 |                |               |                   |
| 2010        | Hiscock & Barclay                                     | Syracuse, NY      | \$311            | \$650        | \$195       | \$348           | \$440          | \$150         | \$234             |
| 2010        | Hodgson Russ  | Buffalo, NY       | \$328            | \$665        | \$230       | \$374           | \$410          | \$175         | \$238             |
| 2010        | Hogan Lovells   | Washington        |                  |              |             |                 |                |               |                   |
| 2010        | Holland & Hart LLP                                    | Washington        |                  |              |             |                 |                |               |                   |
| 2010        | Holland & Knight                                      | Washington        | \$418            | \$850        | \$300       | \$499           | \$480          | \$185         | \$288             |
| 2010        | Holme Roberts & Owen                                  | Denver            | \$356            | \$635        | \$285       | \$415           | \$530          | \$170         | \$295             |
| 2010        | Honigman Miller Schwartz and Cohn                     | Detroit           |                  |              |             |                 |                |               |                   |
| 2010        | Hughes Hubbard & Reed LLP                             | New York          |                  |              |             |                 |                |               |                   |
| 2010        | Hunton & Williams                                     | Richmond, VA      |                  |              |             |                 |                |               |                   |
| 2010        | Husch Blackwell                                       | St. Louis         | \$329            | \$804        | \$230       | \$357           | \$415          | \$171         | \$220             |
| 2010        | Ice Miller LLP  | Indianapolis      |                  |              |             |                 |                |               |                   |
| 2010        | Irell & Manella                                       | Los Angeles       |                  |              |             |                 |                |               |                   |
| 2010        | Jackson Kelly   | Charleston, WV    |                  | \$495        | \$245       |                 | \$275          | \$155         |                   |
| 2010        | Jackson Lewis   | White Plains, NY  | \$384            | \$715        | \$260       | \$428           | \$440          | \$150         | \$282             |
| 2010        | Jones Day   | Washington        |                  |              |             |                 |                |               |                   |
| 2010        | Jones, Walker, Waechter, Poitevent, Carrara & Denegre | New Orleans       |                  | \$620        | \$195       |                 | \$275          | \$140         |                   |
| 2010        | K&L Gates   | Pittsburgh        |                  |              |             |                 |                |               |                   |
| 2010        | Kelley Drye & Warren                                  | New York          |                  | \$900        | \$465       |                 | \$665          | \$275         |                   |
| 2010        | Kenyon & Kenyon LLP                                   | New York          |                  |              |             |                 |                |               |                   |

| Fiscal Year | Firm Name                                    | Location       | Firmwide Average | Partner High | Partner Low | Partner Average | Associate High | Associate Low | Associate Average |
|-------------|--|----------------|------------------|--------------|-------------|-----------------|----------------|---------------|-------------------|
| 2010        | Kilpatrick Stockton                          | Atlanta        | \$425            | \$730        | \$375       | \$527           | \$465          | \$225         | \$320             |
| 2010        | Kirkland & Ellis                             | Chicago        |                  |              |             |                 |                |               |                   |
| 2010        | Knobbe, Martens, Olson & Bear                | Irvine, CA     | \$432            | \$710        | \$395       | \$511           | \$450          | \$285         | \$332             |
| 2010        | Kramer Levin Natfalis & Frankel              | New York       |                  |              |             |                 |                |               |                   |
| 2010        | Lane Powell                                  | Seattle        | \$349            | \$600        | \$310       | \$431           | \$350          | \$230         | \$278             |
| 2010        | Lathrop & Gage                               | Kansas City    |                  | \$490        | \$255       |                 | \$265          | \$160         |                   |
| 2010        | LeClairRyan, Professional Corporation        | Richmond, VA   |                  |              |             |                 |                |               |                   |
| 2010        | Leonard, Street and DeBard                   | Minneapolis    |                  |              |             |                 |                |               |                   |
| 2010        | Lewis and Roca                               | Phoenix, AZ    |                  |              |             |                 |                |               |                   |
| 2010        | Lewis Brisbois Bisgaard & Smith              | Los Angeles    |                  |              |             |                 |                |               |                   |
| 2010        | Lewis, Rice & Fingersh                       | St. Louis      |                  | \$460        | \$250       |                 | \$315          | \$150         | \$235             |
| 2010        | Lindquist & Vennum                           | Minneapolis    | \$330            |              |             | \$415           |                |               | \$296             |
| 2010        | Littler Mendelson                            | San Francisco  | \$372            | \$650        | \$290       | \$445           | \$480          | \$210         | \$320             |
| 2010        | Locke Lord Bissell & Liddell                 | Dallas         | \$486            | \$1,120      | \$400       | \$599           | \$525          | \$215         | \$320             |
| 2010        | Loeb & Loeb                                  | New York       |                  | \$975        | \$475       |                 | \$575          | \$275         |                   |
| 2010        | Lowenstein Sandler                           | Roseland, NJ   |                  | \$825        | \$440       |                 | \$575          | \$235         |                   |
| 2010        | Luce, Forward, Hamilton & Scripps            | San Diego      |                  | \$670        | \$350       |                 | \$445          | \$245         |                   |
| 2010        | Manatt, Phelps & Phillips                    | Los Angeles    | \$568            | \$850        | \$525       | \$651           | \$525          | \$200         | \$405             |
| 2010        | Marshall, Dennehey, Warner, Coleman & Goggin | Philadelphia   |                  | \$410        | \$145       |                 | \$320          | \$130         |                   |
| 2010        | Maynard, Cooper & Gate                       | Birmingham, AL |                  | \$600        | \$325       |                 | \$295          | \$235         |                   |
| 2010        | McAndrews, Held & Malloy                     | Chicago        |                  | \$675        | \$260       |                 | \$350          | \$225         |                   |

| Fiscal Year | Firm Name                                | Location          | Firmwide Average | Partner High | Partner Low | Partner Average | Associate High | Associate Low | Associate Average |
|-------------|--|-------------------|------------------|--------------|-------------|-----------------|----------------|---------------|-------------------|
| 2010        | McCarter & English                       | Newark, NJ        | \$355            | \$825        | \$360       | \$498           | \$405          | \$215         | \$313             |
| 2010        | McEroy, Deutsch, Mulvaney & Carpenter    | Morristown, N.J.  | \$210            | \$550        | \$295       | \$280           | \$275          | \$150         | \$190             |
| 2010        | McGuireWoods                             | Richmond, Va.     | \$455            | \$830        | \$325       | \$543           | \$600          | \$220         | \$355             |
| 2010        | McKenna Long & Aldridge                  | Atlanta           | \$455            | \$775        | \$375       | \$540           | \$490          | \$220         | \$366             |
| 2010        | Michael Best & Friedrich                 | Milwaukee         | \$345            | \$650        | \$235       | \$400           | \$320          | \$190         | \$239             |
| 2010        | Miles & Stockbridge                      | Baltimore         | \$695            | \$695        | \$325       | \$370           | \$370          | \$220         | \$218             |
| 2010        | Miller & Martin                          | Chattanooga, TN   | \$328            | \$610        | \$235       | \$361           | \$275          | \$180         | \$218             |
| 2010        | Miller, Canfield, Paddock and Stone      | Detroit           |                  |              |             |                 |                |               |                   |
| 2010        | Montgomery, McCracken, Walker & Rhoads   | Philadelphia      |                  | \$625        | \$380       | \$461           | \$395          | \$205         | \$284             |
| 2010        | Moore & Van Allen                        | Charlotte, N.C.   | \$364            | \$785        | \$265       | \$441           | \$350          | \$180         | \$257             |
| 2010        | Morgan, Lewis & Bockius                  | Philadelphia      |                  |              |             |                 |                |               |                   |
| 2010        | Morris, Manning & Martin                 | Atlanta           | \$424            | \$760        | \$425       | \$492           | \$545          | \$225         | \$353             |
| 2010        | Morrison & Foerster                      | San Francisco, CA |                  |              |             |                 |                |               |                   |
| 2010        | Munger, Tolles & Olson                   | Los Angeles       |                  |              |             |                 |                |               |                   |
| 2010        | Neal, Gerber & Eisenberg                 | Chicago           |                  |              |             |                 |                |               |                   |
| 2010        | Nelson Mullins Riley & Scarborough       | Columbia, SC      | \$347            | \$850        | \$245       | \$399           | \$335          | \$185         | \$248             |
| 2010        | Nexsen Pruet                             | Columbia, SC      |                  | \$625        | \$230       |                 | \$250          | \$150         |                   |
| 2010        | Nixon Peabody                            | New York          | \$429            | \$905        | \$375       | \$613           | \$580          | \$195         | \$388             |
| 2010        | O'Melveny & Myers                        | Los Angeles       |                  |              |             |                 |                |               |                   |
| 2010        | Ogletree, Deakins, Nash, Smoak & Stewart | Greenville, S.C.  | \$351            | \$575        | \$300       | \$389           | \$390          | \$195         | \$285             |

| Fiscal Year | Firm Name                                      | Location          | Firmwide Average | Partner High | Partner Low | Partner Average | Associate High | Associate Low | Associate Average |
|-------------|--|-------------------|------------------|--------------|-------------|-----------------|----------------|---------------|-------------------|
| 2010        | Orrick, Herrington & Sutcliffe                 | San Francisco, CA |                  |              |             |                 |                |               |                   |
| 2010        | Parker Poe Adams & Bernstein LLP               | Charlotte N.C.    |                  |              |             |                 |                |               |                   |
| 2010        | Patton Boggs                                   | Washington        | \$482            | \$990        | \$355       | \$645           | \$550          | \$215         | \$399             |
| 2010        | Paul, Hastings, Janofsky & Walker              | New York          |                  |              |             |                 |                |               |                   |
| 2010        | Paul, Weiss, Riffkind & Wharton & Garrison LLP | New York          |                  |              |             |                 |                |               |                   |
| 2010        | Pepper Hamilton                                | Philadelphia      | \$326            | \$825        | \$420       | \$547           | \$465          | \$230         | \$329             |
| 2010        | Perkins Core                                   | Seattle           | \$447            | \$825        | \$275       | \$534           | \$570          | \$200         | \$354             |
| 2010        | Phelps Dunbar                                  | New Orleans       | \$226            | \$385        | \$160       | \$272           | \$240          | \$145         | \$183             |
| 2010        | Phillips Lytle                                 | Buffalo, NY       | \$255            | \$535        | \$260       | \$352           | \$450          | \$150         | \$283             |
| 2010        | Pillsbury Winthrop Shaw Pittman                | New York          |                  |              |             |                 |                |               |                   |
| 2010        | Polsinelli Shughart                            | Kansas City, MO   |                  | \$600        | \$250       |                 | \$325          | \$185         |                   |
| 2010        | Quarles & Brady                                | Milwaukee         | \$364            | \$660        | \$290       | \$438           | \$400          | \$210         | \$260             |
| 2010        | Reed Smith                                     | Pittsburgh        |                  |              |             |                 |                |               |                   |
| 2010        | Reinhardt Boerner Van Doren                    | Milwaukee         |                  |              |             |                 |                |               |                   |
| 2010        | Roetzel & Andress                              | Akron, OH         | \$317            | \$525        | \$225       | \$357           | \$325          | \$165         | \$243             |
| 2010        | Rutan & Tucker                                 | Costa Mesa, CA    |                  | \$650        | \$355       |                 | \$450          | \$225         |                   |
| 2010        | Saul Ewing                                     | Philadelphia      | \$412            | \$800        | \$320       | \$491           | \$475          | \$225         | \$310             |
| 2010        | Schiff Hardin LLP                              | Chicago           |                  |              |             |                 |                |               |                   |
| 2010        | Schnader Harrison Segal & Lewis                | Philadelphia      |                  |              |             |                 |                |               |                   |
| 2010        | Schulte Roth & Zabel                           | New York          |                  | \$895        | \$735       |                 | \$690          | \$275         |                   |
| 2010        | Schwabe, Williamson & Wyatt                    | Portland, OR      | \$350            | \$540        | \$310       | \$415           | \$450          | \$200         | \$260             |
| 2010        | Sedgwick, Detert, Moran & Arnold               | San Francisco     |                  |              |             |                 |                |               |                   |
| 2010        | Seyfarth Shaw                                  | Chicago           | \$377            | \$770        | \$335       | \$505           | \$535          | \$185         | \$325             |

| Fiscal Year | Firm Name                            | Location          | Firmwide Average | Partner High | Partner Low | Partner Average | Associate High | Associate Low | Associate Average |
|-------------|--------------------------------------|-------------------|------------------|--------------|-------------|-----------------|----------------|---------------|-------------------|
| 2010        | Sheppard Mullin                      | Los Angeles       |                  | \$820        | \$495       |                 | \$620          | \$270         |                   |
| 2010        | Stelman & Howard                     | New York          |                  |              |             |                 |                |               |                   |
| 2010        | Shook, Hardy & Bacon                 | Kansas City, MO   |                  |              |             |                 |                |               |                   |
| 2010        | Shumaker, Loop & Kendrick            | Toledo, OH        | \$331            | \$540        | \$290       | \$366           | \$315          | \$185         | \$246             |
| 2010        | Skadden, Arps, Slate, Meagher & Flom | New York          |                  |              |             |                 |                |               |                   |
| 2010        | Smith, Gambrell & Russell            | Atlanta           |                  | \$740        | \$325       |                 | \$440          | \$195         |                   |
| 2010        | Snell & Wilmer                       | Phoenix           | \$338            | \$795        | \$315       | \$488           | \$550          | \$175         | \$282             |
| 2010        | Squire, Sanders & Dempsey            | Cleveland         |                  |              |             |                 |                |               |                   |
| 2010        | Steptoe & Johnson LLP                | Washington        |                  |              |             |                 |                |               |                   |
| 2010        | Stevens & Lee                        | Reading, PA       |                  |              |             |                 |                |               |                   |
| 2010        | Stinson Morrison Hecker              | Kansas City, MO   |                  |              |             |                 |                |               |                   |
| 2010        | Sites & Harbison                     | Louisville, KY    |                  |              |             |                 |                |               |                   |
| 2010        | Stoel Rives                          | Portland, OR      | \$381            | \$600        | \$315       | \$441           | \$390          | \$190         | \$270             |
| 2010        | Strasburger & Price                  | Dallas            | \$336            | \$617        | \$250       | \$372           | \$306          | \$194         | \$243             |
| 2010        | Sullivan & Worcester                 | Boston            | \$537            | \$830        | \$475       | \$647           | \$535          | \$290         | \$383             |
| 2010        | Sutherland Asbill & Brennan          | Atlanta           |                  |              |             |                 |                |               |                   |
| 2010        | Taft, Stettinius & Hollister         | Cincinnati        | \$315            | \$500        | \$220       | \$358           | \$365          | \$165         | \$227             |
| 2010        | Thompson & Knight                    | Dallas            |                  | \$825        | \$410       |                 | \$440          | \$265         |                   |
| 2010        | Thompson Coburn                      | St. Louis         |                  | \$610        | \$300       |                 | \$395          | \$190         |                   |
| 2010        | Townsend and Townsend and Crew       | San Francisco, CA | \$320            | \$750        | \$470       | \$563           | \$460          | \$260         | \$345             |
| 2010        | Troutman Sanders                     | Atlanta           |                  |              |             |                 |                |               |                   |
| 2010        | Ulmer & Berne                        | Cleveland         |                  | \$565        | \$260       |                 | \$375          | \$185         |                   |
| 2010        | Vedder Price                         | Chicago           | \$425            | \$720        | \$370       | \$483           | \$365          | \$255         | \$326             |
| 2010        | Venable                              | Washington        | \$484            | \$950        | \$445       | \$590           | \$500          | \$280         | \$353             |

| Fiscal Year | Firm Name                             | Location          | Firmwide Average | Partner High | Partner Low | Partner Average | Associate High | Associate Low | Associate Average |
|-------------|---------------------------------------|-------------------|------------------|--------------|-------------|-----------------|----------------|---------------|-------------------|
| 2010        | Vorys, Sater, Seymour and Peese       | Columbus, OH      |                  |              |             |                 |                |               |                   |
| 2010        | Wachtell, Lipton, Rosen & Katz        | New York          |                  |              |             |                 |                |               |                   |
| 2010        | Weil, Gotshat & Manges LLP            | New York          |                  |              |             |                 |                |               |                   |
| 2010        | White and Williams                    | Philadelphia      |                  |              |             |                 |                |               |                   |
| 2010        | Wildman, Harrold, Allen & Dixon LLP   | Chicago           |                  |              |             |                 |                |               |                   |
| 2010        | Wilsey Rein                           | Washington        |                  |              |             |                 |                |               |                   |
| 2010        | Williams Mullen                       | Richmond, Va.     | \$368            | \$645        | \$315       | \$428           | \$370          | \$230         | \$279             |
| 2010        | Willkie Farr & Gallagher LLP          | New York          |                  |              |             |                 |                |               |                   |
| 2010        | Wilmer Cutler Pickering Hale and Dorr | Washington        |                  |              |             |                 |                |               |                   |
| 2010        | Winstead                              | Dallas            | \$395            | \$685        | \$340       | \$462           | \$390          | \$215         | \$291             |
| 2010        | Winston & Strawn                      | Chicago           | \$486            | \$1,075      | \$475       | \$670           | \$610          | \$250         | \$393             |
| 2010        | Wombie Carlyle Sandridge & Rice       | Winston Salem, NC | \$372            | \$625        | \$300       | \$461           | \$445          | \$210         | \$291             |
| 2010        | Wyatt, Tarrant & Combs                | Louisville, KY    |                  | \$500        | \$245       |                 | \$285          | \$180         |                   |



**2010 NLJ Associate Class Billing Survey**  
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| Final Year | Firm Name                           | 1st year      | 2nd year      | 3rd year      | 4th year      | 5th year      | 6th year      | 7th year      | 8th year      |
|------------|-------------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| 2010       | Alston & Bird                       | \$270 - \$345 | \$330 - \$395 | \$365 - \$440 | \$395 - \$470 | \$420 - \$515 | \$445 - \$550 | \$470 - \$570 |               |
| 2010       | Benesch, Friedlander, Coplan        | \$195         | \$200         | \$215         | \$230         | \$240         | \$250         | \$275         |               |
| 2010       | Blank Rome                          | \$250 - \$275 | \$260 - \$290 | \$280 - \$305 | \$325 - \$360 | \$345 - \$400 | \$370 - \$435 | \$390 - \$460 | \$410 - \$480 |
| 2010       | Brinks Hofer Gilson & Liore         | \$240         | \$265         | \$285         | \$310         | \$340         | \$365         | \$390         | \$410         |
| 2010       | Brownstein Hyatt Farber Schreck     | \$200         |               |               |               |               |               |               |               |
| 2010       | Bryan Cave                          | \$185 - \$300 | \$215 - \$350 | \$250 - \$385 | \$275 - \$395 | \$300 - \$420 | \$275 - \$460 | \$330 - \$480 | \$340 - \$510 |
| 2010       | Curtis, Mallet-Prevost, Colt &      | \$290         | \$335         | \$375         | \$415         | \$455         | \$495         | \$535         | \$575         |
| 2010       | Davis Wright Tremaine               | \$190 - \$285 | \$205 - \$295 | \$225 - \$325 | \$235 - \$345 | \$245 - \$365 | \$265 - \$380 | \$285 - \$405 | \$295 - \$415 |
| 2010       | Dickinson Wright                    | \$190         | \$195         | \$205         | \$220         | \$230         | \$240         | \$250         |               |
| 2010       | Dickstein Shapiro                   | \$265 - \$290 | \$325 - \$375 | \$375 - \$425 | \$375 - \$425 | \$425 - \$475 | \$425 - \$475 | \$475 - \$530 | \$475 - \$530 |
| 2010       | Dinsmore & Shohl                    | \$180         | \$190         | \$205         | \$220         | \$230         | \$240         | \$250         | 260           |
| 2010       | Edwards Angell Palmer & Dodge       | 255           | 275           |               |               |               |               |               |               |
| 2010       | Fitzpatrick, Cella, Harper & Scinto | \$275         | \$300         | \$325         | \$350         | \$370         | \$385         | \$405         | \$420         |

| Filed Year | Firm Name                              | Associate Class |           |               |               |               |               |               |               |               |               |               |               |
|------------|--|-----------------|-----------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
|            |  | 1st year        | 2nd year  | 3rd year      | 4th year      | 5th year      | 6th year      | 7th year      | 8th year      |               |               |               |               |
| 2010       | Frost Brown Todd                       | \$150           |           |               |               |               |               |               |               |               |               |               |               |
| 2010       | Gardere Wynne Sewell                   | 195             | 210       | 260           | 280           | 300           | 315           | 355           |               |               |               |               |               |
| 2010       | Harris Beach                           | \$155           | \$170     | \$200         | \$230         | \$230         | \$250         | \$250         |               |               |               |               | 385           |
| 2010       | Hiscock & Barclay                      | \$150 - \$340   | \$150-340 | \$165 - \$360 | \$165 - \$360 | \$165 - \$360 | \$175 - \$380 | \$175 - \$380 | \$175 - \$380 | \$175 - \$380 | \$175 - \$380 | \$175 - \$380 | \$250         |
| 2010       | Kelley Dye & Warren                    | \$305           | \$340     | \$370         | \$410         | \$435         | \$455         | \$485         |               |               |               |               | \$165 - \$440 |
| 2010       | Kilpatrick Stockton                    | 250             | 275       | 310           | 325           | 335           | 360           | 375           |               |               |               |               | 510           |
| 2010       | Kiobbe Martens Olson & Bear            | \$285           | \$310     | \$335         | \$360         | \$385         |               |               |               |               |               |               | 385           |
| 2010       | Lindquist & Vennum                     | \$200           | \$210     | 225           | 235           | 245           | 260           | 265           |               |               |               |               | 290           |
| 2010       | Locke Lord Bissell & Liddell           | \$215           | \$230     | \$253         | \$270         | \$300         | \$321         | \$349         |               |               |               |               | \$386         |
| 2010       | Loeb & Loeb                            | \$350 - \$375   |           |               |               |               |               |               |               |               |               |               |               |
| 2010       | Maynard, Cooper & Gale                 | \$235           | \$235     | \$245         | \$255         | \$270         | \$280         | \$295         |               |               |               |               |               |
| 2010       | McElroy, Deutsch, Mulvaney & Meyer     | \$150           | \$175     | \$185         | \$195         | \$200         | \$205         | \$210         |               |               |               |               | \$220         |
| 2010       | McKenna Long & Aldridge                | 279             | 312       | 325           | 346           | 363           | 381           | 382           |               |               |               |               | 415           |
| 2010       | Montgomery, McCracken, Walker & Rhoads | \$205           | \$215     | \$235         | \$255         | \$275         | \$295         | \$315         |               |               |               |               | \$335         |
| 2010       | Morris, Manning & Martin               | \$200           | \$265     | \$310         | \$340         | \$365         | \$390         | \$415         |               |               |               |               | \$425         |

| Year | Firm Name                     | Assessable Class |           |               |               |               |               |               |               |               |  |       |  |
|------|-------------------------------|------------------|-----------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|--|-------|--|
|      |                               | 1st year         | 2nd year  | 3rd year      | 4th year      | 5th year      | 6th year      | 7th year      | 8th year      |               |  |       |  |
| 2010 | Frost Brown Todd              | \$150            |           |               |               |               |               |               |               |               |  |       |  |
| 2010 | Gardere Wynne Sewell          | 195              | 210       | 260           | 280           | 300           | 315           | 355           |               |               |  | 385   |  |
| 2010 | Harris Beach                  | \$155            | \$170     | \$200         | \$230         | \$230         | \$230         | \$250         |               |               |  | \$250 |  |
| 2010 | Miscock & Barclay             | \$150 - \$340    | \$150-340 | \$165 - \$360 | \$165 - \$360 | \$165 - \$360 | \$175 - \$380 | \$175 - \$380 | \$175 - \$380 | \$185 - \$440 |  |       |  |
| 2010 | Kelley Dye & Warren           | \$305            | \$340     | \$370         | \$410         | \$435         | \$455         | \$485         |               |               |  | 510   |  |
| 2010 | Kilpatrick Stockton           | 250              | 275       | 310           | 325           | 335           | 360           | 375           |               |               |  | 385   |  |
| 2010 | Knobbe Martens Olson & Bear   | \$285            | \$310     | \$335         | \$360         | \$385         |               |               |               |               |  |       |  |
| 2010 | Lindquist & Vennum            | \$200            | \$210     | 225           | 235           | 245           | 260           | 265           |               |               |  | 290   |  |
| 2010 | Locke Lord Bissell & Liddell  | \$215            | \$230     | \$253         | \$270         | \$300         | \$321         | \$349         |               |               |  | \$386 |  |
| 2010 | Loeb & Loeb                   | \$350 - \$375    |           |               |               |               |               |               |               |               |  |       |  |
| 2010 | Maynard, Cooper & Gale        | \$235            | \$235     | \$245         | \$255         | \$270         | \$280         | \$295         |               |               |  |       |  |
| 2010 | McElroy Deutsch, Mulvaney &   | \$150            | \$175     | \$185         | \$195         | \$200         | \$205         | \$210         |               |               |  | \$220 |  |
| 2010 | McKenna Long & Aldridge       | 279              | 312       | 325           | 346           | 363           | 381           | 382           |               |               |  | 415   |  |
| 2010 | Montgomery, McCracken, Walker | \$205            | \$215     | \$235         | \$255         | \$275         | \$295         | \$315         |               |               |  | \$335 |  |
| 2010 | Morris, Manning & Martin      | \$200            | \$265     | \$310         | \$340         | \$365         | \$390         | \$415         |               |               |  | \$425 |  |

| Fiscal Year |                                     | Associate Class |               |               |               |               |               |               |               |  |  |
|-------------|-------------------------------------|-----------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|--|--|
| Firm Name   |                                     | 1st year        | 2nd year      | 3rd year      | 4th year      | 5th year      | 6th year      | 7th year      | 8th year      |  |  |
| 2010        | Patton Boggs                        | \$290           | \$315         | \$340         | \$370         | \$400         | \$425         | \$450         | \$480         |  |  |
| 2010        | Pepper Hamilton                     | \$230           | \$275         | \$300         | \$330         | \$355         | \$370         | \$385         | \$395         |  |  |
| 2010        | Perkins Cole                        | 272             | 290           | 306           | 337           | 345           | 372           | 391           | 436           |  |  |
| 2010        | Phillips Lytle                      | \$160           | \$170         | \$190         | \$195         | \$210         | \$225         | \$220         | 235           |  |  |
| 2010        | Quantes & Brady                     | \$210 - \$235   | \$220 - \$240 |               |               |               |               |               |               |  |  |
| 2010        | Saul Ewing                          | \$225 - \$235   | \$230 - \$260 | \$255 - \$275 | \$240 - \$315 | \$260 - \$285 | \$285 - \$300 | \$295 - \$425 | \$275 - \$320 |  |  |
| 2010        | Schutte Roth & Zabel                | \$375           | \$445         | \$495         | \$540         | \$560         | \$580         | \$605         | \$625         |  |  |
| 2010        | Schwabe                             |                 |               |               |               |               |               |               |               |  |  |
| 2010        | Williamson & Wyatt                  | \$200           |               |               |               |               |               |               |               |  |  |
| 2010        | Sheppard, Mullin, Richter & Hampton | \$270 - \$335   | \$330 - \$430 | \$365 - \$475 | \$395 - \$510 | \$420 - \$540 | \$445 - \$565 | \$470 - \$595 | \$490 - \$620 |  |  |
| 2010        | Snell & Wilmer                      | \$185           | \$200         | \$225         | \$260         | \$285         | \$315         | \$350         | \$365         |  |  |
| 2010        | Strasburger & Price                 | \$200           | \$220         | \$240         | \$260         | \$280         | \$300         | \$320         | \$340         |  |  |
| 2010        | Sullivan & Worcester                | \$290           | \$305         | \$330         | \$350         | \$370         | \$390         | \$425         |               |  |  |
| 2010        | Thompson & Knight                   | \$265           | \$300         | \$330         | \$365         | \$385         | \$405         | \$425         | \$440         |  |  |
| 2010        | Townsend and Townsend and Crew      | 260             | 290           | 325           | 370           | 390           | 420           | 450           | 460           |  |  |
| 2010        | Veeder Price                        | 225             | 270           | 290           | 310           | 325           | 345           | 360           | 380           |  |  |

| Fiscal Year | Firm Name        | Associate Class |               |               |               |               |               |               |               |
|-------------|------------------|-----------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
|             |                  | 1st year        | 2nd year      | 3rd year      | 4th year      | 5th year      | 6th year      | 7th year      | 8th year      |
| 2010        | Williams Mullien | \$230           | \$250         | \$265         | \$295         | \$295         | \$310         | \$345         | \$345         |
| 2010        | Winstead         | \$215           | 215           | 227           | 260           | 280           | 300           | 325           | 350           |
| 2010        | Winston & Strawn | \$295 - \$320   | \$305 - \$335 | \$325 - \$365 | \$350 - \$400 | \$380 - \$440 | \$420 - \$460 | \$455 - \$520 | \$490 - \$555 |



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**Bankruptcy Rates Top \$1,000 Mark in 2008-09**

Amy Kolz  
The American Lawyer  
December 16, 2009

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A review of bankruptcy rates in Delaware and the Southern District of New York shows that a handful of U.S.-based partners at Am Law 200 firms have inched above the \$1,000 rate barrier, making bankruptcy work as lucrative as it was plentiful in 2008 and 2009. Over a 12-month period ending August 2009, there were more than 13,000 billing rate entries submitted by law firms in the nation's two busiest bankruptcy courts, according to a new database compiled by ALM Media.

Among U.S.-based lawyers at Am Law 200 firms, Shearman & Sterling tax partner Bernie Pistillo topped the rate chart with an hourly fee of \$1,065 for his work on the bankruptcy of Stock Building Supply Holdings LLC, a building products supplier, in Delaware. (One solo practitioner in Pleasantville, N.Y., Alan Harris, surpassed Pistillo's rate, charging \$1,200 an hour for his work as special real estate litigation counsel on the bankruptcy of Digital Printing Systems in the Southern District of New York.) Eleven other U.S.-based Am Law 200 partners were in the \$1,000-plus club, according to the database. Cadwalader, Wickersham & Taft financial restructuring co-chair Daryck Palmer, a former Weil, Gotshal & Manges partner, billed Lyondell Chemical Co. at a rate of \$1,050 for work on its 2009 bankruptcy. Greenberg Traurig bankruptcy co-chair Bruce Zirinsky, who left Cadwalader last January, billed \$1,050 an hour as debtor's counsel for TH Agriculture and Nutrition LLC, as did White & Case global restructuring head Thomas Lauria for WCI Communities Inc., and Robert Pincus, the head of the corporate practice in Skadden, Arps, Slate, Meagher & Flom's Wilmington office, for Hayes Lemmerz International Inc., an automotive wheel supplier.

Neal Stoll, a Skadden antitrust partner, and Sally Thurston, a Skadden tax partner, billed \$1,035 for work on the bankruptcies of VeraSun Energy Corp. and Hayes Lemmerz, respectively, while Latham & Watkins corporate finance chair Kirk Davenport billed at \$1,025 an hour for Dayton Superior Corp.'s filing. Paul Weiss, Rifkind, Wharton & Garrison partners Carl Reisner and Richard Bronstein billed at \$1,025 for the Buffets Inc., bankruptcy. (Reisner is co-head of the firm's M&A practice and Bronstein is co-chair of its tax practice.) Simpson Thacher & Bartlett partners Lee Meyerson and litigator Michael Chepiga charged Lehman Brothers \$1,000 an hour on the sale of its brokerage to Barclays Bank PLC.

Absent from the \$1,000 club are Weil, Gotshal & Manges restructuring gurus Harvey Miller and Marcia Goldstein. Both clocked rates of \$950 an hour for their work on the Lehman Brothers and BearingPoint Inc. bankruptcies, respectively. Also, Kirkland & Ellis' James Sprayregen billed \$965 an hour for work on the bankruptcies of Lear Corp. and The Reader's Digest Association. And Jones Day partner Corinne Ball charged \$900 an hour for her work on Chrysler's filing.

Comparing the median partner rates among Am Law 200 firms in the database demonstrated that there are few bargains when it comes to Chapter 11 work. Among those charging median partner rates of more than \$900 an hour were: Cadwalader; Cleary Gottlieb Steen & Hamilton; Davis Polk & Wardwell; Milbank, Tweed, Hadley & McCloy; Paul Weiss; Shearman & Sterling; Simpson Thacher; and Skadden. Firms with median partner billing rates between \$800 and \$900 were Gibson Dunn, Fried Frank, Latham, Paul Hastings, Weil Gotshal, and White & Case. Firms billing \$700 or below were Akin Gump Strauss Hauer & Feld, Kirkland, Sidley Austin, and Sonnenschein Nath & Rosenthal. (Medians can be deceiving, since some firms, such as Kirkland, had a difference of more than \$600 between its highest- and lowest-rate partners.)

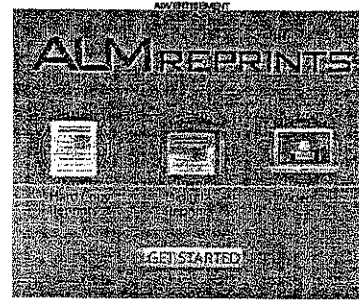
The bankruptcy case with one of the highest median partner rates was Nortel Networks. The phone equipment maker paid firms such as Cleary and Kirkland a median partner rate of \$940. Firms working on the Lehman filing billed a median partner rate of \$810 during the time period, while firms working on the filing of Tribune Co. billed a median of \$690, according to the database.

Associate rates occasionally topped \$700 an hour on bankruptcies including Lehman and Nortel Networks, as well as that of the lesser-known Sportsman's Warehouse. Discovery attorneys, research specialists and benefits consultants sometimes billed between \$500 and \$600 on cases such as Nortel, Charter Communications and Graphics Properties Holdings Inc.

| FIRM                | MEDIAN PARTNER RATE* | # PARTNERS FILING |
|---------------------|----------------------|-------------------|
| Simpson Thacher     | \$980                | 30                |
| Cleary Gottlieb     | \$960                | 47                |
| Shearman & Sterling | \$950                | 17                |
| Davis Polk          | \$948                | 14                |
| Skadden             | \$945                | 38                |
| Paul Weiss          | \$925                | 24                |
| Cadwalader          | \$900                | 29                |
| Milbank             | \$900                | 55                |
| Weil Gotshal        | \$843                | 142               |
| Gibson Dunn         | \$840                | 29                |
| Fried Frank         | \$83                 | 518               |
| Latham & Watkins    | \$830                | 57                |
| White & Case        | \$825                | 21                |
| Paul Hastings       | \$810                | 46                |
| Sidley Austin       | \$700                | 99                |
| Akin Gump           | \$680                | 79                |



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|              |       |     |
|--------------|-------|-----|
| Kirkland     | \$675 | 149 |
| Sonnenschein | \$625 | 47  |

\*U.S.-based partners only.

The American Lawyer will publish a detailed analysis of the bankruptcy billing rates in its February 2010 issue.

[Click here to order the Excel® version of the 2009 Bankruptcy Billing Rates Report.](#)

This article first appeared on *The Am Law Daily* blog on [AmericanLawyer.com](http://AmericanLawyer.com).

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*\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow. The National Law Journal January 13, 2014 Monday*

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**LENGTH:** 1860 words

**HEADLINE:** \$1,000 Per Hour **Isn't Rare Anymore;**  
Nominal billing levels rise, but discounts ease blow.

**BYLINE:** KAREN SLOAN

**BODY:**

As recently as five years ago, law partners charging \$1,000 an hour were outliers. Today, four-figure hourly rates for indemand partners at the most prestigious firms don't raise eyebrows-and a few top earners are closing in on \$2,000 an hour.

These rate increases come despite hand-wringing over price pressures from clients amid a tough economy. But everrising standard billing rates also obscure the growing practice of discounts, falling collection rates, and slow march toward alternative fee arrangements.

Nearly 20 percent of the firms included in The National Law Journal's annual survey of large law firm billing rates this year had at least one partner charging more than \$1,000 an hour. Gibson, Dunn & Crutcher partner Theodore Olson had the highest rate recorded in our survey, billing \$1,800 per hour while representing mobile satellite service provider LightSquared Inc. in Chapter 11 proceedings.

Of course, few law firm partners claim Olson's star power. His rate in that case is nearly the twice the \$980 per hour average charged by Gibson Dunn partners and three times the average \$604 hourly rate among partners at NLJ 350 firms. Gibson Dunn chairman and managing partner Ken Doran said Olson's rate is "substantially" above that of other partners at the firm, and that the firm's standard rates are in line with its peers.

"While the majority of Ted Olson's work is done under alternative billing arrangements, his hourly rate reflects his stature in the legal community, the high demand for his services and the unique value that he offers to clients given his extraordinary experience as a former solicitor general of the United States who has argued more than 60 cases before the U.S. Supreme Court and has counseled several presidents," Doran said.

In reviewing billing data this year, we took a new approach, asking each firm on the NLJ 350-our survey of the nation's 350 largest firms by attorney headcount-to provide their highest, lowest and average billing rates for associates and partners. We supplemented those data through public records. All together, this year's survey includes information for 159 of the country's largest law firms and reflects billing rates as of October.

The figures show that, even in a down economy, hiring a large law firm remains a pricey prospect. The median among the highest partner billing rates reported at each firm is \$775 an hour, while the median low partner rate is \$405. For associates, the median high stands at \$510 and the low at \$235. The average associate rate is \$370.

Multiple industry studies show that law firm billing rates continued to climb during 2013 despite efforts by corporate counsel to rein them in. TyMetrix's 2013 Real Rate Report Snapshot found that the average law firm billing rate increased by 4.8 percent compared with 2012. Similarly, the Center for the Study of the Legal Profession at the Georgetown University Law Center and Thomson Reuters Peer Monitor found that law firms increased their rates by an average 3.5 percent during 2013.

Of course, rates charged by firms on paper don't necessarily reflect what clients actually pay. Billing realization rates-which reflect the percentage of work billed at firms' standard rates- have fallen from 89 percent in 2010 to nearly 87 percent in 2013 on average, according to the Georgetown study. When accounting for billed hours actually collected by firms, the realization rate falls to 83.5 percent.

"What this means, of course, is that- on average-law firms are collecting only 83.5 cents for every \$1.00 of standard time they record," the Georgetown report reads. "To understand the full impact, one need only consider that at the end of 2007, the collected realization rate was at the 92 percent level."

In other words, law firms set rates with the understanding that they aren't likely to collect the full amount, said Mark Medice, who oversees the Peer Monitor Index. That index gauges the strength of the legal market according to economic indicators including demand for legal services, productivity, rates and expenses. "Firms start out with the idea of, 'I want to achieve a certain rate, but it's likely that my client will ask for discounts whether or not I increase my rate,'" Medice said.

Indeed, firms bill nearly all hourly work at discounts ranging from 5 percent to 20 percent off standard rates, said Peter Zeughauser, a consultant with the Zeughauser Group. Discounts can run as high as 50 percent for matters billed under a hybrid system, wherein a law firm can earn a premium for keeping costs under a set level or for obtaining a certain outcome, he added. "Most firms have gone to a two-tier system, with what is essentially an aspirational rate that they occasionally get and a lower rate that they actually budget for," he said.

Most of the discounting happens at the front end, when firms and clients negotiate rates, Medice said. But additional discounting happens at the billing and collections stages. Handling alternative fee arrangements and discounts has become so complex that more than half of the law firms on the Am Law 100-NLJ affiliate The American Lawyer's ranking of firms by gross revenue-have created new positions for pricing directors, Zeughauser said.

## THE ROLE OF GEOGRAPHY

Unsurprisingly, rates vary by location. Firms with their largest office in New York had the highest average partner and associate billing rates, at \$882 and \$520, respectively. Similarly, TyMetrix has reported that more than 25 percent of partners at large New York firms charge \$1,000 per

hour or more for contracts and commercial work.

Washington was the next priciest city on our survey, with partners charging an average \$748 and associates \$429. Partners charge an average \$691 in Chicago and associates \$427. In Los Angeles, partners charge an average \$665 while the average associate rate is \$401.

Pricing also depends heavily on practice area, Zeughauser and Medice said. Bet-the-company patent litigation and white-collar litigation largely remain at premium prices, while practices including labor and employment have come under huge pressure to reduce prices.

"If there was a way for law firms to hold rates, they would do it. They recognize how sensitive clients are to price increases," Zeughauser said. But declining profit margins—due in part to higher technology costs and the expensive lateral hiring market—mean that firms simply lack the option to keep rates flat, he said.

**BILLING SURVEY METHODOLOGY**

The National Law Journal's survey of billing rates of the largest U.S. law firms provides the high, low and average rates for partners and associates.

The NLJ asked respondents to its annual survey of the nation's largest law firms (the NLJ 350) to provide a range of hourly billing rates for partners and associates as of October 2013.

For firms that did not supply data to us, in many cases we were able to supplement billing-rate data derived from public records.

In total, we have rates for 159 of the nation's 350 largest firms.

Rates data include averages, highs and low rates for partners and associates. Information also includes the average full-time equivalent (FTE) attorneys at the firm and the city of the firm's principal or largest office.

We used these data to calculate averages for the nation as a whole and for selected cities.

**Billing Rates at the Country's Priciest Law Firms**

Here are the 50 firms that charge the highest average hourly rates for partners.

**Billing Rates at the Country's Priciest Law Firms**

| FIRM NAME | LARGEST U.S. OFFICE* | AVERAGE FULL-TIME EQUIVALENT ATTORNEYS* | PARTNER HOURLY RATES |      | ASSOCIATE HOURLY RATES |         |
|-----------|----------------------|---|----------------------|------|------------------------|---------|
|           |                      |   | AVERAGE              | HIGH | LOW                    | AVERAGE |

\* Full-time equivalent attorney numbers and the largest U.S. office are from the NLJ 350 published in April 2013. For complete numbers, please see [NLJ.com](http://NLJ.com).

\*\* Firm did not exist in this form for the entire year.

|                      |          |     |         |         |       |       |       |       |
|----------------------|----------|-----|---------|---------|-------|-------|-------|-------|
| Debevoise & Plimpton | New York | 615 | \$1,055 | \$1,075 | \$955 | \$490 | \$760 | \$120 |
| Paul, Weiss,         | New York | 803 | \$1,040 | \$1,120 | \$760 | \$600 | \$760 | \$250 |

|  |                  |       |         |         |       |       |         |       |  |
|--|------------------|-------|---------|---------|-------|-------|---------|-------|--|
| Rifkind,<br>Wharton &<br>Garrison              |                  |       |         |         |       |       |         |       |  |
| Skadden,<br>Arps, Slate,<br>Meagher &<br>Flom  | New York         | 1,735 | \$1,035 | \$1,150 | \$845 | \$620 | \$845   | \$340 |  |
| Fried, Frank,<br>Harris, Shriver<br>& Jacobson | New York         | 476   | \$1,000 | \$1,100 | \$930 | \$595 | \$760   | \$375 |  |
| Latham &<br>Watkins                            | New York         | 2,033 | \$990   | \$1,110 | \$895 | \$605 | \$725   | \$465 |  |
| Gibson, Dunn<br>& Crutcher                     | New York         | 1,086 | \$980   | \$1,800 | \$765 | \$590 | \$930   | \$175 |  |
| Davis Polk &<br>Wardwell                       | New York         | 787   | \$975   | \$985   | \$850 | \$615 | \$975   | \$130 |  |
| Willkie Farr &<br>Gallagher                    | New York         | 540   | \$950   | \$1,090 | \$790 | \$580 | \$790   | \$350 |  |
| Cadwalader,<br>Wickersham &<br>Taft            | New York         | 435   | \$930   | \$1,050 | \$800 | \$605 | \$750   | \$395 |  |
| Weil, Gotshal<br>& Manges                      | New York         | 1,201 | \$930   | \$1,075 | \$625 | \$600 | \$790   | \$300 |  |
| Quinn<br>Emanuel<br>Urquhart &<br>Sullivan     | New York         | 697   | \$915   | \$1,075 | \$810 | \$410 | \$675   | \$320 |  |
| Wilmer Cutler<br>Pickering Hale<br>and Dorr    | Washington       | 961   | \$905   | \$1,250 | \$735 | \$290 | \$695   | \$75  |  |
| Dechert  | New York         | 803   | \$900   | \$1,095 | \$670 | \$530 | \$735   | \$395 |  |
| Andrews<br>Kurth                               | Houston          | 348   | \$890   | \$1,090 | \$745 | \$528 | \$785   | \$265 |  |
| Hughes<br>Hubbard &<br>Reed                    | New York         | 344   | \$890   | \$995   | \$725 | \$555 | \$675   | \$365 |  |
| Irell & Manella                                | Los<br>Angeles   | 164   | \$890   | \$975   | \$800 | \$535 | \$750   | \$395 |  |
| Proskauer<br>Rose                              | New York         | 746   | \$880   | \$950   | \$725 | \$465 | \$675   | \$295 |  |
| White & Case                                   | New York         | 1,900 | \$875   | \$1,050 | \$700 | \$525 | \$1,050 | \$220 |  |
| Morrison &<br>Foerster                         | San<br>Francisco | 1,010 | \$865   | \$1,195 | \$595 | \$525 | \$725   | \$230 |  |
| Pillsbury<br>Winthrop<br>Shaw Pittman          | Washington       | 609   | \$865   | \$1,070 | \$615 | \$520 | \$860   | \$375 |  |
| Kaye Scholer                                   | New York         | 414   | \$860   | \$1,080 | \$715 | \$510 | \$680   | \$320 |  |
| Kramer Levin<br>Naftalis &<br>Frankel          | New York         | 320   | \$845   | \$1,025 | \$740 | \$590 | \$750   | \$400 |  |
| Hogan Lovells                                  | Washington       | 2,280 | \$835   | \$1,000 | \$705 | -     | -       | -     |  |

|  |                |       |       |         |       |       |       |       |
|--|----------------|-------|-------|---------|-------|-------|-------|-------|
| Kasowitz,<br>Benson,<br>Torres &<br>Friedman | New York       | 365   | \$835 | \$1,195 | \$600 | \$340 | \$625 | \$200 |
| Kirkland & Ellis                             | Chicago        | 1,517 | \$825 | \$995   | \$590 | \$540 | \$715 | \$235 |
| Cooley                                       | Palo Alto      | 632   | \$820 | \$990   | \$660 | \$525 | \$630 | \$160 |
| Arnold &<br>Porter                           | Washington     | 748   | \$815 | \$950   | \$670 | \$500 | \$610 | \$345 |
| Paul Hastings                                | New York       | 899   | \$815 | \$900   | \$750 | \$540 | \$755 | \$335 |
| Curtis, Mallet-<br>Prevost, Colt<br>& Mosle  | New York       | 322   | \$800 | \$860   | \$730 | \$480 | \$785 | \$345 |
| Winston &<br>Strawn                          | Chicago        | 842   | \$800 | \$995   | \$650 | \$520 | \$590 | \$425 |
| Bingham<br>McCutchen                         | Boston         | 900   | \$795 | \$1,080 | \$220 | \$450 | \$605 | \$185 |
| Akin Gump<br>Strauss Hauer<br>& Feld         | Washington     | 806   | \$785 | \$1,220 | \$615 | \$525 | \$660 | \$365 |
| Covington &<br>Burling                       | Washington     | 738   | \$780 | \$890   | \$605 | \$415 | \$565 | \$320 |
| King &<br>Spalding                           | Atlanta        | 838   | \$775 | \$995   | \$545 | \$460 | \$735 | \$125 |
| Norton Rose<br>Fulbright                     | N/A**          | N/A** | \$775 | \$900   | \$525 | \$400 | \$515 | \$300 |
| DLA Piper                                    | New York       | 4,036 | \$765 | \$1,025 | \$450 | \$510 | \$750 | \$250 |
| Bracewell &<br>Giuliani                      | Houston        | 432   | \$760 | \$1,125 | \$575 | \$440 | \$700 | \$275 |
| Baker &<br>McKenzie                          | Chicago        | 4,004 | \$755 | \$1,130 | \$260 | \$395 | \$925 | \$100 |
| Dickstein<br>Shapiro                         | Washington     | 308   | \$750 | \$1,250 | \$590 | \$475 | \$585 | \$310 |
| Jenner &<br>Block                            | Chicago        | 432   | \$745 | \$925   | \$565 | \$465 | \$550 | \$380 |
| Jones Day                                    | New York       | 2,363 | \$745 | \$975   | \$445 | \$435 | \$775 | \$205 |
| Manatt,<br>Phelps &<br>Phillips              | Los<br>Angeles | 325   | \$740 | \$795   | \$640 | -     | -     | -     |
| Seward &<br>Kissel                           | New York       | 152   | \$735 | \$850   | \$625 | \$400 | \$600 | \$290 |
| O'Melveny &<br>Myers                         | Los<br>Angeles | 738   | \$715 | \$950   | \$615 | -     | -     | -     |
| McDermott<br>Will & Emery                    | Chicago        | 1,024 | \$710 | \$835   | \$525 | -     | -     | -     |
| Reed Smith                                   | Pittsburgh     | 1,468 | \$710 | \$945   | \$545 | \$420 | \$530 | \$295 |
| Dentons                                      | N/A**          | N/A** | \$700 | \$1,050 | \$345 | \$425 | \$685 | \$210 |
| Jeffer Mangels<br>Butler &<br>Mitchell       | Los<br>Angeles | 126   | \$690 | \$875   | \$560 | -     | -     | -     |
| Sheppard,                                    | Los            | 521   | \$685 | \$875   | \$490 | \$415 | \$535 | \$275 |

Mullin, Richter Angeles  
& Hampton

Alston & Bird Atlanta 805 \$675 \$875 \$495 \$425 \$575 \$280

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These 10 firms posted the highest partner billing rates.

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|--|---------|
| Gibson, Dunn & Crutcher                  | \$1,800 |
| Dickstein Shapiro                        | \$1,250 |
| Wilmer Cutler Pickering Hale and Dorr    | \$1,250 |
| Akin Gump Strauss Hauer & Feld           | \$1,220 |
| Kasowitz, Benson, Torres & Friedman      | \$1,195 |
| Morrison & Foerster                      | \$1,195 |
| Skadden, Arps, Slate, Meagher & Flom     | \$1,150 |
| Baker & McKenzie                         | \$1,130 |
| Bracewell & Giuliani                     | \$1,125 |
| Paul, Weiss, Rifkind, Wharton & Garrison | \$1,120 |

Contact Karen Sloan at [ksloan@alm.com](mailto:ksloan@alm.com)

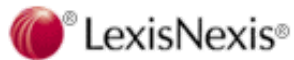
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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 SHANNON TAYLOR,

4 Plaintiff,

5 -against-

16 CV 1812 (KMK)

6 TRUSTED MEDIA BRANDS, INC.,

7 Defendant.

8 -----x

9  
10 United States Courthouse  
White Plains, New York

11 January 31, 2018

12  
13 B e f o r e :

14 HONORABLE KENNETH M. KARAS,  
District Court Judge

15 A P P E A R A N C E S :

16 BURSOR & FISHER, PA  
Attorneys for Plaintiff  
17 888 Seventh Avenue  
New York, New York 10019

18 BY: JOSEPH MARCHESE  
PHILIP FRAIETTA

19 DENTONS US LLP  
Attorneys for Defendant  
20 233 South Wacker Drive, Suite 7800  
Chicago, Illinois 60601

21 BY: NATALIE SPEARS  
22 SANDRA HAUSER

23

24

25

1 THE CLERK: Honorable Kenneth M. Karas, presiding.  
2 Case number 16CV1812. *Shannon Taylor versus*  
3 *Custom Video Brands, Inc.*

4 Counsel, please state your appearances for the  
5 record.

6 MR. MARCHESE: Good morning, everyone.

7 Joseph Marchese, Bursor & Fisher, for the  
8 settlement class. And I am joined by my colleague today,  
9 Phil Fraietta.

10 THE COURT: Good morning to you both.

11 MS. SPEARS: Good morning, your Honor.

12 Natalie Spears for defendant, Trusted Media.

13 MS. HAUSER: Sandra Hauser, also for Trusted  
14 Media.

15 THE COURT: Good morning to you both. Please be  
16 seated.

17 All right. So we're here on the application for  
18 final approval of the class settlement. I've read the  
19 papers.

20 Is there anything that anybody wants to add?

21 MR. MARCHESE: Your Honor, I've prepared some  
22 somewhat lengthy remarks and, as you know, there are no  
23 objections to the settlement or to our attorneys' fees  
24 requests. So I'm either prepared to present the remarks  
25 from soup to nuts, or just take a cue from your Honor, if

1 you have any questions.

2 THE COURT: I don't have any questions. I feel  
3 terrible that you've done all this work. So if you want to  
4 say to the client that you were brilliant in delivering  
5 these remarks, I'm good with that.

6 MR. MARCHESE: You know, for now, your Honor, I  
7 think I'll just maybe reserve any remarks that I have. If I  
8 hear something that kind of pops up --

9 THE COURT: Okay.

10 MR. MARCHESE: -- I may jump up.

11 THE COURT: Okay. Thank you.

12 Do you want to give a speech?

13 MS. SPEARS: No, thank you. Thank you for the  
14 Court's time, and just take the opportunity to do that, but  
15 other than that, we support approval of the class  
16 settlement.

17 THE COURT: Okay. Well, as I said, I've reviewed  
18 the papers, and so what I'm going to do is rather than have  
19 you all wait for me to draft an opinion, I'm just going to  
20 let you know how I come out on this now.

21 The basic terms of the settlement and the request  
22 for fees and the incentive award come down to defendant  
23 establishing a fund, a non-revisionary settlement fund in  
24 the amount of \$8,225,000. That fund is going to pay all the  
25 claims to the class members, the incentive award to the

1 plaintiff, the notice and administration expenses, as well  
2 as the attorneys' fees.

3           The class members who submitted the claim form are  
4 going to receive a pro rata award estimated to be about \$50.  
5 In exchange for the settlement, the defendant and each of  
6 its related and affiliate entities are going to receive a  
7 full release of all claims, "arising out of any facts,  
8 transactions, events, matters, occurrences, acts,  
9 disclosures, statements, representations, omissions or  
10 failure to act regarding the alleged disclosure of the  
11 settlement class members, Michigan subscriber information,  
12 including, but not limited to all claims that were brought  
13 or could have been brought in the action relating to any and  
14 all releasing parties."

15           And just parenthetically, the law is well-settled  
16 in this circuit, as well as other courts, that class action  
17 releases may include claims not presented, and even those  
18 which could not have been presented, as long as the released  
19 conduct arises out of the identical factual predicate as the  
20 settled conduct. That was noted by the *Second Circuit in*  
21 *Wal-Mart Stores Inc. versus Visa USA*, 396 F.3d 96, 107.  
22 That principle applies here.

23           Class counsel seeks attorneys' fees of 33.33  
24 percent of the settlement fund, which equates to  
25 \$2,741,392.50, and then the class representative, Taylor,

1 seeks a \$5,000 incentive award.

2 Now, before certification, class certification is  
3 proper for any purpose, whether it's settlement or  
4 otherwise, a court has to make sure that the Rule 23(a) and  
5 (b) requirements have been met. That's what the circuit has  
6 instructed in, among other cases, in *Denney versus Deutsche*  
7 *Bank AG*, 443 F.3d, 253, 270.

8 Obviously, the settlement only class has to meet  
9 all the requirements of Rule 23 with the exception of the  
10 requirement dealing with the trial. So you don't have to  
11 worry about the manageability of the trial. But otherwise,  
12 the Rule 23 requirements are not to be watered down just  
13 because a settlement might be fair and/or equitable. That's  
14 *Denney* at page 270.

15 Now, under Rule 23(a), plaintiff seeking  
16 certification have to meet four requirements; numerosity,  
17 commonality, typicality and adequacy of representation.

18 In terms of numerosity, the Second Circuit has  
19 said its presumed at a level of at least 40 members, that's  
20 from *Consolidated Rail Corp. versus Town of Hyde Park*, 47  
21 F.3d, 473, 483. Here, the representation is that the class  
22 consists of roughly 1.1 million or so individuals. So I  
23 think we're comfortably north of 40.

24 In terms of commonality, that requires the  
25 questions of fact and law are common to the class. That's

1 from the *Meredith Corp.*, case. That's *Meredith Corp. versus*  
2 *SESAC, LLC*, 87 F.Supp. 3d, 650, 659. The courts in the  
3 Second Circuit haven't had the pleasure of addressing  
4 commonality in the context of claims under their PPPA. But,  
5 as class counsel points out, there are cases in the Eastern  
6 District of Michigan that have approved settlement classes  
7 for claims brought under this provision, among others is  
8 *Kinder versus Meredith Corp.*, 2016 WL 454441, \*1. That's a  
9 case from 2016, February of 2016, and there are others that  
10 all say the same thing.

11 So the Court finds here that the question common  
12 to all class members is whether defendants disclose each of  
13 the customers' protected personal reading information to  
14 third parties in violation of PPPA, and so commonality is,  
15 therefore, satisfied. For the same reason, typicality is  
16 satisfied. And in terms of adequacy of representation, this  
17 requires the Court to inquire as to whether the plaintiffs'  
18 interests are antagonistic to the interests of other members  
19 of the class, and also that the plaintiffs' attorneys are  
20 qualified, experienced and able to conduct the litigation.  
21 So said the Second Circuit in *Baffa versus Donaldson, Lufkin*  
22 *& Jenrette Security Corp.*, 222 F.3d, 52, 60.

23 There's nothing in the record to indicate that the  
24 plaintiff is incapable or somehow ill-suited to represent  
25 the other class members, and as for class counsel, it has

1 represented and, indeed, has substantiated that it has  
2 extensive experience in litigating class actions of similar  
3 size and scope, as well as complexity, including other PPPA  
4 cases. And counsel has been appointed as lead counsel in  
5 cases throughout the country. So I'm comfortable in  
6 reaching the conclusion that class counsel's qualified, and  
7 that's without hearing your brilliant statement.

8           Now, in addition to the express requirements of  
9 Rule 23(a), there is an ascertainability requirement which  
10 requires that a class be definite in order to be certified.  
11 That's from the *MTBE Products Liability Litigation*, 209  
12 F.R.D. 323, 336. The touchstone of ascertainability is  
13 whether the class is sufficiently definite so that it is  
14 administratively feasible for the Court to determine whether  
15 a particular individual is a member. That's from *Brecher*  
16 *versus Republic of Argentina*, 806 F.3d, 22, 24.

17           Here the class is defined as, "all persons with a  
18 Michigan street address who subscribe to a TMBI publication  
19 to be delivered to a Michigan street address, between  
20 March 10, 2010 and July 30, 2016. As proposed, this class  
21 satisfies the ascertainability requirement as it is limited  
22 to Michigan residents who subscribed to the aforementioned  
23 publications between the prescribed time period. As such,  
24 these are sufficiently definite requirements that it is  
25 administratively feasible for the Court to determine whether

1 or not a particular individual is a member.

2 Now, turning to Rule 23(b)(3), a class has to meet  
3 two additional requirements. Common questions have to  
4 predominate over questions affecting only individual members  
5 and a class resolution must be superior to other available  
6 methods of the fair and efficient adjudication of the  
7 controversy. That's from the Supreme Court Decision in  
8 *Amchem Products*, 521 U.S. 591, 615. In terms of  
9 predominance, that asks whether the proposed classes are  
10 sufficiently cohesive to warrant adjudication by  
11 representation. That's from the Supreme Court's decision in  
12 *Tyson Foods*, 136 Supreme Court Reporter, 1036, 1045.

13 And again, there is case law that applies these  
14 principles directly to PPPA claims, and they've been held to  
15 satisfy the predominance requirement. So the aforementioned  
16 *Kinder* case, as well as *Coulter-Owens versus Time, Inc.*, 308  
17 F.R.D. 524, 536. And here it's clear to the Court that  
18 common questions regarding whether defendant's practices  
19 violated Michigan law will indeed predominate over  
20 individual questions and so therefore the requirement is  
21 satisfied.

22 Superiority requires a showing that the class  
23 action is superior to other methods available for the fair  
24 and efficient adjudication of the controversy. I don't  
25 think I'm going to break a sweat saying that this would be

1 tough to do if we had to do a million cases. So I think the  
2 superiority requirement is easily satisfied. So, therefore,  
3 the Court finds that the proposed class may be certified for  
4 settlement purposes.

5 In terms of the fairness of the settlement, a  
6 court can approve a settlement only if the settlement is  
7 "fair, adequate and reasonable, and not a product of  
8 collusion." That's from *Wal-Mart Stores* at page 116.

9 In determining fairness, the Court is to look at  
10 both the settlement's terms and the negotiating process that  
11 led to the settlement. And indeed, there's a presumption of  
12 fairness, adequacy and reasonableness attached to a class  
13 settlement reached in arm's-length negotiations between  
14 experienced, capable counsel after meaningful discovery.  
15 All of that from *Wal-Mart Stores*. So that does include  
16 examining, among other things, the negotiating process that  
17 led to the settlement.

18 In terms of this point, the procedural fairness,  
19 the Court seeks to ensure that the settlement resulted from  
20 an arm's-length, good-faith negotiation between experienced  
21 and skilled litigators, said the Second Circuit in *Charron*  
22 *versus Wiener*, 731 F.3d, 241, 247. This is typically found  
23 where there has been sufficient discovery, for example, to  
24 inform the negotiations where the parties are represented by  
25 experienced counsel in litigating these types of claims, and

1 where there is significant evidence demonstrating the  
2 settlement was the product of, as I said, prolonged  
3 arm's-length negotiation, and it certainly helps that there  
4 is the assistance of a respected mediator.

5 Here the settlement was reached after  
6 approximately 12 months of litigation. There was, in fact,  
7 a significant exchange of information through the discovery  
8 process. This included, among other things, document  
9 production, interrogatories -- I've already commented on the  
10 quality of counsel. So there's no question there, and the  
11 settlement was reached after mediation session with Judge  
12 Maas, who is awesome, I'll just say that for the record. So  
13 there's more than enough reason to find that this settlement  
14 satisfies the procedural fairness requirement.

15 In terms of substantive fairness, we go with the  
16 *Grinnell* factors. I'm not going to read all of them here,  
17 you all know them.

18 Starting with complexity, expense and likely  
19 duration of litigation. Obviously, most class actions are  
20 inherently complex. Given the scope of the litigation here,  
21 that factor is easily satisfied.

22 Reaction of the settlement class, some courts have  
23 said this is perhaps the most significant factor. One of  
24 those is *Raniere versus CitiGroup, Inc.*, 310 F.R.D. 211,  
25 218.

1            Obviously, a favorable response demonstrates that  
2            the class approves settlement. Here that's overwhelmingly  
3            satisfied as no class member has objected to the settlement.  
4            So that weighs in favor of approval.

5            Next is the stage of the proceedings and the  
6            amount of discovery completed. I've already talked about  
7            that. This case has had to go through some pretty  
8            substantial document exchanges and interrogatories and a  
9            litigation had been going on for some time before there was  
10           settlement. So that included in the document production,  
11           things like subscription records, records of transmissions  
12           of customer information, there were third parties involved,  
13           there were notices of disclosures. And, yes, it's true  
14           there were not depositions, but there were interrogatories.  
15           So this factor weighs in favor of approval.

16           The risk of establishing liability and damages.  
17           These are the fourth and fifth factors. In analyzing the  
18           risk to plaintiffs in establishing liability, the Court  
19           doesn't need to decide the merits of the case. That's *In Re*  
20           *Hi-Crush Partners, LP Securities Litigation*, 2014 WL  
21           7323417, \*8, the Court is only required to weigh the  
22           likelihood of success on the merits against the relief  
23           provided by the settlement. And the courts often approve  
24           settlements where the plaintiffs were to face significant  
25           legal and factual obstacles to establish liability.

1           Here the defendant has denied and continues to  
2 deny liability in this action. Thus, there is no certainty  
3 that the claims would succeed at trial if the case were to  
4 go to trial. And indeed, plaintiffs acknowledge that the  
5 case, while it's strong, is not without its risks, which,  
6 among other things, could have included a summary judgment  
7 motion. This factor cuts in favor of settlement, because  
8 the settlement provides a tangible, certain substantial  
9 relief to the class now without subjecting to the class to  
10 the risk, complexity, duration and expense of continued  
11 litigation. That's all from *Hi-Crush Partners*, \*9.

12           The sixth factor asks about the risks maintaining  
13 class action status through the trial. Indeed, there could  
14 have been challenges from the defense about the class  
15 certification. So this factor is, at worst, neutral, and,  
16 at best, tips the scales in favor of approval.

17           Seventh factor asks about the ability of defendant  
18 to withstand a greater judgment. Here, there is a question  
19 as to whether or not defendant could withstand a much  
20 greater judgment because defendant has undergone two  
21 bankruptcy proceedings in the preceding ten years. So this  
22 factor cuts in favor of approval.

23           The eighth and ninth factors ask about the range  
24 of reasonableness of the settlement in light of the best  
25 possible recovery and in light of all the attendant risks of

1 litigation.

2           You think someday somebody is going to cut these  
3 nine down to five factors? You should put that in your  
4 speech.

5           MS. SPEARS: We support that as well.

6           THE COURT: Right?

7           So under these factors, the courts need only find  
8 that the settlement falls within a range of reasonableness.  
9 That's from *Meredith Corp.* at 666. So the adequacy of the  
10 amount achieved in settlement is not to be judged in  
11 comparison with the possible recovery in best of all  
12 possible world, but rather in light of strength and  
13 weaknesses of the plaintiffs' case. Same case, same page.

14           So here, as I mentioned already, the settlement  
15 here is an optimal result because there is a certain  
16 recovery, this was a result that was achieved after  
17 substantial exchange of information with the assistance of  
18 Judge Maas. Given especially defendant's bankruptcy files,  
19 the Court is persuaded that the settlement fits safely  
20 within the range of what is reasonable, given all the  
21 circumstances in this case.

22           So next up is the adequacy of the class notice;  
23 23(b) requires the courts must direct to class members the  
24 best notice that is practicable under the circumstances,  
25 including individual notice to all members who can be

1 identified through reasonable effort.

2 So under both the federal rule and due process  
3 considerations, the adequacy of notice to class members  
4 depends on the particular circumstances of each case.

5 Conformity with Rule 23(c) requirements, however,  
6 typically fulfills the due process mandate, said the Supreme  
7 Court back in 1974, *Eisen versus Carlisle and Jacquelin*, 417  
8 U.S. 156, 173.

9 Now, here actual notice was attempted on all class  
10 members and actually given to 91.37 percent of the class,  
11 which is 1,006,569 class members. The identities and  
12 addresses of the class members were obtained by referencing  
13 defendant's records. And, as I said, actual notice was  
14 mailed to these individuals either by postcard or email by  
15 the claims administrator.

16 Notice to the remaining class members was returned  
17 as undeliverable and alternative email or post email  
18 addresses were not available.

19 So given this record, the Court finds that this  
20 notice procedure satisfies Rule 23 and due process. Indeed,  
21 the courts have said that for due process to be satisfied,  
22 not every class member has to receive actual notice, as long  
23 as counsel "acted reasonably in selecting means likely to  
24 inform persons affected." And I'll commit the mortal sin of  
25 citing a summary order, that's from the Second Circuit's

1 order in *Adelphia Communications Corp. Security and*  
2 *Derivative Litigation*, 271 Fed. App. 41, 44.

3 So that requirement has been satisfied.

4 In terms of the incentive award, these are common  
5 in class actions. They serve, obviously, to compensate  
6 plaintiffs for their time and effort assisting in the  
7 prosecution of the litigation, the risk incurred by becoming  
8 and continuing as a litigant, and any of the burdens that  
9 are sustained by the plaintiff.

10 Here class representative Taylor has requested an  
11 incentive award of \$5,000. What is said about Ms. Taylor is  
12 she was critical to the ultimate success of the case, having  
13 spent approximately 30 hours protecting the interests of the  
14 class, including investigating the claims, detailing  
15 magazine subscription histories, aiding in the drafting of  
16 the complaint and also assisting in the discovery process.

17 In light of these contributions, which are not  
18 disputed, the Court finds that the service award is  
19 appropriate.

20 Then we come to the issue of attorneys' fees,  
21 which I always scrub. Here, as I said, the request is for  
22 one-third of the common fund, which is just a little more  
23 than \$2.7 million. It includes, by the way, the  
24 unreimbursed litigation expenses of \$6,675.53, which is a  
25 legitimate thing to seek.

1           Now, in assessing the attorneys' fees, the Second  
2 Circuit says that we're supposed to use one of two methods.  
3 There's the percentage of the fund method; 33 percent is  
4 typical, the *Raniere* case held that at page 216, as well  
5 220, 222, *DeLeon versus Wells Fargo Bank*, 2015 WL, 2255394,  
6 and so that, obviously, is to take into consideration the  
7 attorneys' fees in proportion to the settlement fund as a  
8 whole.

9           The other method is the lodestar method, where the  
10 Court is to scrutinize the fee petition to ascertain the  
11 number of hours reasonably billed to the class and then  
12 multiply that figure by the appropriate hourly rate. That's  
13 discussed in *Goldberger*. But after computing the fee, the  
14 Court may, in its discretion, increase the lodestar by  
15 applying a multiplier based on other less objective factors  
16 such as the risk of litigation and the performance of the  
17 attorney.

18           Now, the lodestar method is not supposed to be  
19 used for computing attorneys' fees. In any event, we're  
20 supposed to apply the *Goldberger* factor.

21           See, *Goldberger* has it down to six factors.

22           So starting with time and labor, here the time and  
23 labor class counsel billed 502.6 hours. That covered  
24 everything from drafting the complaint to doing  
25 investigation, discovery, meetings, conferences, review of

1 material and negotiating the settlement.

2           And there was a lot of legal research that had  
3 done, too, because of the *Spokeo* decision. So there is no  
4 question that counsel have dedicated a meaningful amount of  
5 time and labor to this case.

6           Next is the magnitude, complexity and risk of  
7 litigation. I've already talked about this at length with  
8 respect to the Rule 23 issues. The class is over a million  
9 members. It has its own complexity, both factually and  
10 legally, and the risk of litigation was substantial for the  
11 aforementioned reasons. So this factor cuts in favor of the  
12 request.

13           Next is the result achieved and the quality of  
14 representation. Obviously, the result achieved is a major  
15 factor, and here the result is good for the plaintiffs.  
16 It's a substantial fund, and especially given the risk of  
17 litigation and given the defendants' financial history, the  
18 result achieved here is commendable and, obviously, reflects  
19 the high quality of representation.

20           Next is the requested fee in relation to the  
21 settlement. As I said, it's one-third. That's typically  
22 approved by other courts.

23           Public policy considerations. Here the private  
24 Attorney General role is something that does merit  
25 compensation and this case is another example of that.

1           So applying the *Goldberger* factors, the Court  
2 finds that the request for attorneys' fees and expenses is  
3 reasonable.

4           I would note that using the billing hours and  
5 billing rate, the lodestar calculation is substantially  
6 less. Indeed, there's a pretty healthy multiplier here  
7 about 11.7 times when looking at the one-third percentage.  
8 But a high multiplier "should not result in penalizing the  
9 plaintiffs' counsel for achieving an early settlement,  
10 particularly whereas here the settlement amount was  
11 substantial." That's a quote from *Beckman versus Keybank NA*  
12 293 F.R.D. 467, 482.

13           So for the aforementioned reasons, the motion to  
14 certify the class and approve the settlement is granted, as  
15 well as the application for the attorneys' fees, expenses  
16 and approval of the claims administrator, and also the  
17 incentive award for Ms. Taylor.

18           Anything else?

19           MR. MARCHESE: I don't have anything.

20           Thank you, your Honor.

21           THE COURT: Anything else?

22           MR. MARCHESE: There was a proposer order.

23           THE COURT: Yes, it will be signed and docketed.

24 I promise.

25           MS. SPEARS: Order.

1 THE COURT: It would have been fun to try the  
2 case, but good for you all.

3 MR. MARCHESE: We have another one before you,  
4 your Honor.

5 THE COURT: There you go. Hope springs eternal.  
6 All right, then I'll bid you a pleasant rest of  
7 the day. Good to see you all.

8 MS. SPEARS: Thank you, your Honor.

9 MR. MARCHESE: Thank you.

10 (Proceeding concluded)

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[www.bursor.com](http://www.bursor.com)

701 BRICKELL AVENUE  
MIAMI, FL 33131

1330 AVENUE OF THE AMERICAS  
NEW YORK, NY 10019

1990 NORTH CALIFORNIA BLVD.  
WALNUT CREEK, CA 94596

## **FIRM RESUME**

With offices in Florida, New York, and California, BURSOR & FISHER lawyers have represented both plaintiffs and defendants in state and federal courts throughout the country.

The lawyers at our firm have an active civil trial practice, having won multi-million-dollar verdicts or recoveries in six of six class action jury trials since 2008. Our most recent class action trial victory came in May 2019 in *Perez v. Rash Curtis & Associates*, in which Mr. Bursor served as lead trial counsel and won a \$267 million jury verdict against a debt collector found to have violated the Telephone Consumer Protection Act. During the pendency of the defendant's appeal, the case settled for \$75.6 million, the largest settlement in the history of the Telephone Consumer Protection Act.

In August 2013 in *Ayyad v. Sprint Spectrum L.P.*, in which Mr. Bursor served as lead trial counsel, we won a jury verdict defeating Sprint's \$1.06 billion counterclaim and securing the class's recovery of more than \$275 million in cash and debt relief.

In *Thomas v. Global Vision Products, Inc. (II)*, we obtained a \$50 million jury verdict in favor of a certified class of 150,000 purchasers of the Avacor Hair Regrowth System. The legal trade publication VerdictSearch reported that this was the second largest jury verdict in California in 2009, and the largest in any class action.

The lawyers at our firm have an active class action practice and have won numerous appointments as class counsel to represent millions of class members, including customers of Honda, Verizon Wireless, AT&T Wireless, Sprint, Haier America, and Michaels Stores as well as purchasers of Avacor™, Hydroxycut, and Sensa™ products. Bursor & Fisher lawyers have been court-appointed Class Counsel or Interim Class Counsel in:

1. *O'Brien v. LG Electronics USA, Inc.* (D.N.J. Dec. 16, 2010) to represent a certified nationwide class of purchasers of LG French-door refrigerators,
2. *Ramundo v. Michaels Stores, Inc.* (N.D. Ill. June 8, 2011) to represent a certified nationwide class of consumers who made in-store purchases at Michaels Stores using a debit or credit card and had their private financial information stolen as a result,
3. *In re Haier Freezer Consumer Litig.* (N.D. Cal. Aug. 17, 2011) to represent a certified class of purchasers of mislabeled freezers from Haier America Trading, LLC,

4. *Rodriguez v. CitiMortgage, Inc.* (S.D.N.Y. Nov. 14, 2011) to represent a certified nationwide class of military personnel against CitiMortgage for illegal foreclosures,
5. *Rossi v. The Procter & Gamble Co.* (D.N.J. Jan. 31, 2012) to represent a certified nationwide class of purchasers of Crest Sensitivity Treatment & Protection toothpaste,
6. *Dzielak v. Whirlpool Corp. et al.* (D.N.J. Feb. 21, 2012) to represent a proposed nationwide class of purchasers of mislabeled Maytag Centennial washing machines from Whirlpool Corp., Sears, and other retailers,
7. *In re Sensa Weight Loss Litig.* (N.D. Cal. Mar. 2, 2012) to represent a certified nationwide class of purchasers of Sensa weight loss products,
8. *In re Sinus Buster Products Consumer Litig.* (E.D.N.Y. Dec. 17, 2012) to represent a certified nationwide class of purchasers,
9. *Ebin v. Kangadis Food Inc.* (S.D.N.Y. Feb. 25, 2014) to represent a certified nationwide class of purchasers of Capatriti 100% Pure Olive Oil,
10. *Forcellati v. Hyland's, Inc.* (C.D. Cal. Apr. 9, 2014) to represent a certified nationwide class of purchasers of children's homeopathic cold and flu remedies,
11. *Ebin v. Kangadis Family Management LLC, et al.* (S.D.N.Y. Sept. 18, 2014) to represent a certified nationwide class of purchasers of Capatriti 100% Pure Olive Oil,
12. *In re Scotts EZ Seed Litig.* (S.D.N.Y. Jan. 26, 2015) to represent a certified class of purchasers of Scotts Turf Builder EZ Seed,
13. *Dei Rossi v. Whirlpool Corp., et al.* (E.D. Cal. Apr. 28, 2015) to represent a certified class of purchasers of mislabeled KitchenAid refrigerators from Whirlpool Corp., Best Buy, and other retailers,
14. *Hendricks v. StarKist Co.* (N.D. Cal. July 23, 2015) to represent a certified nationwide class of purchasers of StarKist tuna products,
15. *In re NVIDIA GTX 970 Graphics Card Litig.* (N.D. Cal. May 8, 2015) to represent a proposed nationwide class of purchasers of NVIDIA GTX 970 graphics cards,
16. *Melgar v. Zicam LLC, et al.* (E.D. Cal. March 30, 2016) to represent a certified ten-jurisdiction class of purchasers of Zicam Pre-Cold products,
17. *In re Trader Joe's Tuna Litigation* (C.D. Cal. December 21, 2016) to represent purchaser of allegedly underfilled Trader Joe's canned tuna.
18. *In re Welspun Litigation* (S.D.N.Y. January 26, 2017) to represent a proposed nationwide class of purchasers of Welspun Egyptian cotton bedding products,
19. *Retta v. Millennium Products, Inc.* (C.D. Cal. January 31, 2017) to represent a certified nationwide class of Millennium kombucha beverages,
20. *Moeller v. American Media, Inc.*, (E.D. Mich. June 8, 2017) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
21. *Hart v. BHH, LLC* (S.D.N.Y. July 7, 2017) to represent a nationwide class of purchasers of Bell & Howell ultrasonic pest repellers,

22. *McMillion v. Rash Curtis & Associates* (N.D. Cal. September 6, 2017) to represent a certified nationwide class of individuals who received calls from Rash Curtis & Associates,
23. *Lucero v. Solarcity Corp.* (N.D. Cal. September 15, 2017) to represent a certified nationwide class of individuals who received telemarketing calls from Solarcity Corp.,
24. *Taylor v. Trusted Media Brands, Inc.* (S.D.N.Y. Oct. 17, 2017) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
25. *Gasser v. Kiss My Face, LLC* (N.D. Cal. Oct. 23, 2017) to represent a proposed nationwide class of purchasers of cosmetic products,
26. *Gastelum v. Frontier California Inc.* (S.F. Superior Court February 21, 2018) to represent a certified California class of Frontier landline telephone customers who were charged late fees,
27. *Williams v. Facebook, Inc.* (N.D. Cal. June 26, 2018) to represent a proposed nationwide class of Facebook users for alleged privacy violations,
28. *Ruppel v. Consumers Union of United States, Inc.* (S.D.N.Y. July 27, 2018) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
29. *Bayol v. Health-Ade* (N.D. Cal. August 23, 2018) to represent a proposed nationwide class of Health-Ade kombucha beverage purchasers,
30. *West v. California Service Bureau* (N.D. Cal. September 12, 2018) to represent a certified nationwide class of individuals who received calls from California Service Bureau,
31. *Gregorio v. Premier Nutrition Corporation* (S.D.N.Y. Sept. 14, 2018) to represent a nationwide class of purchasers of protein shake products,
32. *Moeller v. Advance Magazine Publishers, Inc. d/b/a Condé Nast* (S.D.N.Y. Oct. 24, 2018) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
33. *Bakov v. Consolidated World Travel Inc. d/b/a Holiday Cruise Line* (N.D. Ill. Mar. 21, 2019) to represent a certified class of individuals who received calls from Holiday Cruise Line,
34. *Martinelli v. Johnson & Johnson* (E.D. Cal. March 29, 2019) to represent a certified class of purchasers of Benecol spreads labeled with the representation “No Trans Fat,”
35. *Edwards v. Hearst Communications, Inc.* (S.D.N.Y. April 24, 2019) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
36. *Galvan v. Smashburger* (C.D. Cal. June 25, 2019) to represent a proposed class of purchasers of Smashburger’s “Triple Double” burger,
37. *Kokoszki v. Playboy Enterprises, Inc.* (E.D. Mich. Feb. 7, 2020) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
38. *Russett v. The Northwestern Mutual Life Insurance Co.* (S.D.N.Y. May 28, 2020) to represent a class of insurance policyholders that were allegedly charged unlawful paper billing fees,

39. *In re: Metformin Marketing and Sales Practices Litigation* (D.N.J. June 3, 2020) to represent a proposed nationwide class of purchasers of generic diabetes medications that were contaminated with a cancer-causing carcinogen,
40. *Hill v. Spirit Airlines, Inc.* (S.D. Fla. July 21, 2020) to represent a proposed nationwide class of passengers whose flights were cancelled by Spirit Airlines due to the novel coronavirus, COVID-19, and whose tickets were not refunded,
41. *Kramer v. Alterra Mountain Co.* (D. Colo. July 31, 2020) to represent a proposed nationwide class of purchasers to recoup the unused value of their Ikon ski passes after Alterra suspended operations at its ski resorts due to the novel coronavirus, COVID-19,
42. *Qureshi v. American University* (D.D.C. July 31, 2020) to represent a proposed nationwide class of students for tuition and fee refunds after their classes were moved online by American University due to the novel coronavirus, COVID-19,
43. *Hufford v. Maxim Inc.* (S.D.N.Y. Aug. 13, 2020) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
44. *Desai v. Carnegie Mellon University* (W.D. Pa. Aug. 26, 2020) to represent a proposed nationwide class of students for tuition and fee refunds after their classes were moved online by Carnegie Mellon University due to the novel coronavirus, COVID-19,
45. *Heigl v. Waste Management of New York, LLC* (E.D.N.Y. Aug. 27, 2020) to represent a class of waste collection customers that were allegedly charged unlawful paper billing fees,
46. *Stellato v. Hofstra University* (E.D.N.Y. Sept. 18, 2020) to represent a proposed nationwide class of students for tuition and fee refunds after their classes were moved online by Hofstra University due to the novel coronavirus, COVID-19,
47. *Kaupelis v. Harbor Freight Tools USA, Inc.* (C.D. Cal. Sept. 23, 2020), to represent consumers who purchased defective chainsaws,
48. *Soo v. Lorex Corporation* (N.D. Cal. Sept. 23, 2020), to represent consumers whose security cameras were intentionally rendered non-functional by manufacturer,
49. *Miranda v. Golden Entertainment (NV), Inc.* (D. Nev. Dec. 17, 2020), to represent consumers and employees whose personal information was exposed in a data breach,
50. *Benbow v. SmileDirectClub, Inc.* (Cir. Ct. Cook Cnty. Feb. 4, 2021), to represent a certified nationwide class of individuals who received text messages from SmileDirectClub, in alleged violation of the Telephone Consumer Protection Act,
51. *Suren v. DSV Solutions, LLC* (Cir. Ct. DuPage Cnty. Apr. 8, 2021), to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
52. *De Lacour v. Colgate-Palmolive Co.* (S.D.N.Y. Apr. 23, 2021), to represent a certified class of consumers who purchased allegedly “natural” Tom’s of Maine products,

53. *Wright v. Southern New Hampshire University* (D.N.H. Apr. 26, 2021), to represent a certified nationwide class of students for tuition and fee refunds after their classes were moved online by Southern New Hampshire University due to the novel coronavirus, COVID-19,
54. *Sahlin v. Hospital Housekeeping Systems, LLC* (Cir. Ct. Williamson Cnty. May 21, 2021), to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
55. *Landreth v. Verano Holdings LLC, et al.* (Cir. Ct. Cook Cnty. June 2, 2021), to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act.
56. *Rocchio v. Rutgers, The State University of New Jersey*, (Sup. Ct., Middlesex Cnty. October 27, 201), to represent a certified nationwide class of students for fee refunds after their classes were moved online by Rutgers due to the novel coronavirus, COVID-19,
57. *Malone v. Western Digital Corp.*, (N.D. Cal. Dec. 22, 2021), to represent a class of consumers who purchased hard drives that were allegedly deceptively advertised,
58. *Jenkins v. Charles Industries, LLC*, (Cir. Ct. DuPage Cnty. Dec. 21, 2021) to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
59. *Frederick v. Examsoft Worldwide, Inc.*, (Cir. Ct. DuPage Cnty. Jan. 6, 2022) to represent a certified class of exam takers who used virtual exam proctoring software, in alleged violation of the Illinois Biometric Information Privacy Act,
60. *Isaacson v. Liqui-Box Flexibles, LLC, et al.*, (Cir. Ct. Will Cnty. Jan. 18, 2022) to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
61. *Goldstein et al. v. Henkel Corp.*, (D. Conn. Mar. 3, 2022) to represent a proposed class of purchasers of Right Guard-brand antiperspirants that were allegedly contaminated with benzene,
62. *McCall v. Hercules Corp.*, (N.Y. Sup. Ct., Westchester Cnty. Mar. 14, 2022) to represent a certified class of who laundry card purchasers who were allegedly subjected to deceptive practices by being denied cash refunds,
63. *Lewis v. Trident Manufacturing, Inc.*, (Cir. Ct. Kane Cnty. Mar. 16, 2022) to represent a certified class of workers who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
64. *Croft v. Spinx Games Limited, et al.*, (W.D. Wash. Mar. 31, 2022) to represent a certified class of Washington residents who lost money playing mobile applications games that allegedly constituted illegal gambling under Washington law,
65. *Fischer v. Instant Checkmate LLC*, (N.D. Ill. Mar. 31, 2022) to represent a certified class of Illinois residents whose identities were allegedly used without their consent in alleged violation of the Illinois Right of Publicity Act,
66. *Rivera v. Google LLC*, (Cir. Ct. Cook Cnty. Apr. 25, 2022) to represent a certified class of Illinois residents who appeared in a photograph in Google Photos, in alleged violation of the Illinois Biometric Information Privacy Act,

67. *Loftus v. Outside Integrated Media, LLC*, (E.D. Mich. May 5, 2022) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
68. *D'Amario v. The University of Tampa*, (S.D.N.Y. June 3, 2022) to represent a certified nationwide class of students for tuition and fee refunds after their classes were moved online by The University of Tampa due to the novel coronavirus, COVID-19,
69. *Fittipaldi v. Monmouth University*, (D.N.J. Sept. 22, 2022) to represent a certified nationwide class of students for tuition and fee refunds after their classes were moved online by Monmouth University due to the novel coronavirus, COVID-19,
70. *Armstead v. VGW Malta Ltd. et al.* (Cir. Ct. Henderson Cnty. Oct. 3, 2022) to present a certified class of Kentucky residents who lost money playing mobile applications games that allegedly constituted illegal gambling under Kentucky law,
71. *Cruz v. The Connor Group, A Real Estate Investment Firm, LLC*, (N.D. Ill. Oct. 26, 2022) to represent a certified class of workers who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
72. *Delcid et al. v. TCP HOT Acquisitions LLC et al.* (S.D.N.Y. Oct. 28, 2022) to represent a certified nationwide class of purchasers of Sure and Brut-brand antiperspirants that were allegedly contaminated with benzene,
73. *Kain v. The Economist Newspaper NA, Inc.* (E.D. Mich. Dec. 15, 2022) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
74. *Strano v. Kiplinger Washington Editors, Inc.* (E.D. Mich. Jan. 6, 2023) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
75. *Moeller v. The Week Publications, Inc.* (E.D. Mich. Jan. 6, 2023) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
76. *Ambrose v. Boston Globe Media Partners, LLC* (D. Mass. May 25, 2023) to represent a nationwide class of newspaper subscribers who were also Facebook users under the Video Privacy Protection Act,
77. *In re: Apple Data Privacy Litigation*, (N.D. Cal. July 5, 2023) to represent a putative nationwide class of all persons who turned off permissions for data tracking and whose mobile app activity was still tracked on iPhone mobile devices,
78. *Young v. Military Advantage, Inc. d/b/a Military.com* (Cir. Ct. DuPage Cnty. July 26, 2023) to represent a nationwide class of website subscribers who were also Facebook users under the Video Privacy Protection Act,
79. *Whiting v. Yellow Social Interactive Ltd.* (Cir. Ct. Henderson Cnty. Aug. 15, 2023) to represent a certified class of Kentucky residents who lost money playing mobile applications games that allegedly constituted illegal gambling under Kentucky law,
80. *Kotila v. Charter Financial Publishing Network, Inc.* (W.D. Mich. Feb. 21, 2024) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,

81. *Schreiber v. Mayo Foundation for Medical Education and Research* (W.D. Mich. Feb. 21, 2024) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
82. *Norcross v. Tishman Speyer Properties, et al.* (S.D.N.Y. May 17, 2024) to represent a class of online ticket purchasers under New York Arts & Cultural Affairs Law § 25.07(4).

### **SCOTT A. BURSOR**

Mr. Bursor has an active civil trial practice, having won multi-million verdicts or recoveries in six of six civil jury trials since 2008. Mr. Bursor's most recent victory came in May 2019 in *Perez v. Rash Curtis & Associates*, in which Mr. Bursor served as lead trial counsel and won a \$267 million jury verdict against a debt collector for violations of the Telephone Consumer Protection Act (TCPA).

In *Ayyad v. Sprint Spectrum L.P.* (2013), where Mr. Bursor served as lead trial counsel, the jury returned a verdict defeating Sprint's \$1.06 billion counterclaim and securing the class's recovery of more than \$275 million in cash and debt relief.

In *Thomas v. Global Vision Products, Inc.* (2009), the jury returned a \$50 million verdict in favor of the plaintiff and class represented by Mr. Bursor. The legal trade publication VerdictSearch reported that this was the second largest jury verdict in California in 2009.

Class actions are rarely tried to verdict. Other than Mr. Bursor and his partner Mr. Fisher, we know of no lawyer that has tried more than one class action to a jury. Mr. Bursor's perfect record of six wins in six class action jury trials, with recoveries ranging from \$21 million to \$299 million, is unmatched by any other lawyer. Each of these victories was hard-fought against top trial lawyers from the biggest law firms in the United States.

Mr. Bursor graduated from the University of Texas Law School in 1996. He served as Articles Editor of the Texas Law Review, and was a member of the Board of Advocates and Order of the Coif. Prior to starting his own practice, Mr. Bursor was a litigation associate at a large New York based law firm where he represented telecommunications, pharmaceutical, and technology companies in commercial litigation.

Mr. Bursor is a member of the state bars of New York, Florida, and California, as well as the bars of the United States Court of Appeals for the Second, Third, Fourth, Sixth, Ninth and Eleventh Circuits, and the bars of the United States District Courts for the Southern and Eastern Districts of New York, the Northern, Central, Southern and Eastern Districts of California, the Southern and Middle Districts of Florida, and the Eastern District of Michigan.

### **Representative Cases**

Mr. Bursor was appointed lead or co-lead class counsel to the largest, 2nd largest, and 3rd largest classes ever certified. Mr. Bursor has represented classes including more than 160 million class members, roughly 1 of every 2 Americans. Listed below are recent cases that are representative of Mr. Bursor's practice:

Mr. Bursor negotiated and obtained court-approval for two landmark settlements in *Nguyen v. Verizon Wireless* and *Zill v. Sprint Spectrum* (the largest and 2nd largest classes ever certified). These settlements required Verizon and Sprint to open their wireless networks to third-party devices and applications. These settlements are believed to be the most significant legal development affecting the telecommunications industry since 1968, when the FCC's Carterfone decision similarly opened up AT&T's wireline telephone network.

Mr. Bursor was the lead trial lawyer in *Ayyad v. Sprint Spectrum, L.P.* representing a class of approximately 2 million California consumers who were charged an early termination fee under a Sprint cellphone contract, asserting claims that such fees were unlawful liquidated damages under the California Civil Code, as well as other statutory and common law claims. After a five-week combined bench-and-jury trial, the jury returned a verdict in June 2008 and the Court issued a Statement of Decision in December 2008 awarding the plaintiffs \$299 million in cash and debt cancellation. Mr. Bursor served as lead trial counsel for this class again in 2013 during a month-long jury trial in which Sprint asserted a \$1.06 billion counterclaim against the class. Mr. Bursor secured a verdict awarding Sprint only \$18.4 million, the exact amount calculated by the class's damages expert. This award was less than 2% of the damages Sprint sought, less than 6% of the amount of the illegal termination fees Sprint charged to class members. In December 2016, after more than 13 years of litigation, the case was settled for \$304 million, including \$79 million in cash payments plus \$225 million in debt cancellation.

Mr. Bursor was the lead trial lawyer in *White v. Cellco Partnership d/b/a Verizon Wireless* representing a class of approximately 1.4 million California consumers who were charged an early termination fee under a Verizon cellphone contract, asserting claims that such fees were unlawful liquidated damages under the California Civil Code, as well as other statutory and common law claims. In July 2008, after Mr. Bursor presented plaintiffs' case-in-chief, rested, then cross-examined Verizon's principal trial witness, Verizon agreed to settle the case for a \$21 million cash payment and an injunction restricting Verizon's ability to impose early termination fees in future subscriber agreements.

Mr. Bursor was the lead trial lawyer in *Thomas v. Global Visions Products Inc.* Mr. Bursor represented a class of approximately 150,000 California consumers who had purchased the Avacor® hair regrowth system. In January 2008, after a four-week combined bench-and-jury trial. Mr. Bursor obtained a \$37 million verdict for the class, which the Court later increased to \$40 million.

Mr. Bursor was appointed class counsel and was elected chair of the Official Creditors' Committee in *In re Nutraquest Inc.*, a Chapter 11 bankruptcy case before Chief Judge Garrett E. Brown, Jr. (D.N.J.) involving 390 ephedra-related personal injury and/or wrongful death claims, two consumer class actions, four enforcement actions by governmental agencies, and multiple adversary proceedings related to the Chapter 11 case. Working closely with counsel for all parties and with two mediators, Judge Nicholas Politan (Ret.) and Judge Marina Corodemus (Ret.), the committee chaired by Mr. Bursor was able to settle or otherwise resolve every claim and reach a fully consensual Chapter 11 plan of reorganization, which Chief Judge Brown approved in late 2006. This settlement included a \$12.8 million recovery to a nationwide class of consumers who alleged they were defrauded in connection with the purchase of Xenadrine® dietary supplement products.

Mr. Bursor was the lead trial lawyer in *In re: Pacific Bell Late Fee Litigation*. After filing the first class action challenging Pac Bell's late fees in April 2010, winning a contested motion to certify a statewide California class in January 2012, and defeating Pac Bell's motion for summary judgment in February 2013, Mr. Bursor obtained final approval of the \$38 million class settlement. The settlement, which Mr. Bursor negotiated the night before opening statements were scheduled to commence, included a \$20 million cash payment to provide refunds to California customers who paid late fees on their Pac Bell wireline telephone accounts, and an injunction that reduced other late fee charges by \$18.6 million.

### **L. TIMOTHY FISHER**

L. Timothy Fisher has an active practice in consumer class actions and complex business litigation and has also successfully handled a large number of civil appeals.

Mr. Fisher has been actively involved in numerous cases that resulted in multi-million dollar recoveries for consumers and investors. Mr. Fisher has handled cases involving a wide range of issues including nutritional labeling, health care, telecommunications, corporate governance, unfair business practices and consumer fraud. With his partner Scott A. Bursor, Mr. Fisher has tried five class action jury trials, all of which produced successful results. In *Thomas v. Global Vision Products*, Mr. Fisher obtained a jury award of \$50,024,611 — the largest class action award in California in 2009 and the second-largest jury award of any kind. In 2019, Mr. Fisher served as trial counsel with Mr. Bursor in *Perez. v. Rash Curtis & Associates*, where the jury returned a verdict for \$267 million in statutory damages under the Telephone Consumer Protection Act.

Mr. Fisher was admitted to the State Bar of California in 1997. He is also a member of the bars of the United States Court of Appeals for the Ninth Circuit, the United States District Courts for the Northern, Central, Southern and Eastern Districts of California, the Northern District of Illinois, the Eastern District of Michigan, and the Eastern District of Missouri. Mr. Fisher taught appellate advocacy at John F. Kennedy University School of Law in 2003 and 2004. In 2010, he contributed jury instructions, a verdict form and comments to the consumer protection chapter of Justice Elizabeth A. Baron's *California Civil Jury Instruction Companion Handbook* (West 2010). In January 2014, Chief Judge Claudia Wilken of the United States District Court for the Northern District of California appointed Mr. Fisher to a four-year term as a member of the Court's Standing Committee on Professional Conduct.

Mr. Fisher received his Juris Doctor from Boalt Hall at the University of California at Berkeley in 1997. While in law school, he was an active member of the Moot Court Board and participated in moot court competitions throughout the United States. In 1994, Mr. Fisher received an award for Best Oral Argument in the first-year moot court competition.

In 1992, Mr. Fisher graduated with highest honors from the University of California at Berkeley and received a degree in political science. Prior to graduation, he authored an honors thesis for Professor Bruce Cain entitled "The Role of Minorities on the Los Angeles City Council." He is also a member of Phi Beta Kappa.

### Representative Cases

*Thomas v. Global Vision Products, Inc.* (Alameda County Superior Court). Mr. Fisher litigated claims against Global Vision Products, Inc. and other individuals in connection with the sale and marketing of a purported hair loss remedy known as Avacor. The case lasted more than seven years and involved two trials. The first trial resulted in a verdict for plaintiff and the class in the amount of \$40,000,000. The second trial resulted in a jury verdict of \$50,024,611, which led to a \$30 million settlement for the class.

*In re Cellphone Termination Fee Cases - Handset Locking Actions* (Alameda County Superior Court). Mr. Fisher actively worked on five coordinated cases challenging the secret locking of cell phone handsets by major wireless carriers to prevent consumers from activating them on competitive carriers' systems. Settlements have been approved in all five cases on terms that require the cell phone carriers to disclose their handset locks to consumers and to provide unlocking codes nationwide on reasonable terms and conditions. The settlements fundamentally changed the landscape for cell phone consumers regarding the locking and unlocking of cell phone handsets.

*In re Cellphone Termination Fee Cases - Early Termination Fee Cases* (Alameda County Superior Court and Federal Communications Commission). In separate cases that are a part of the same coordinated litigation as the Handset Locking Actions, Mr. Fisher actively worked on claims challenging the validity under California law of early termination fees imposed by national cell phone carriers. In one of those cases, against Verizon Wireless, a nationwide settlement was reached after three weeks of trial in the amount of \$21 million. In a second case, which was tried to verdict, the Court held after trial that the \$73 million of flat early termination fees that Sprint had collected from California consumers over an eight-year period were void and unenforceable.

### Selected Published Decisions

*Melgar v. Zicam LLC*, 2016 WL 1267870 (E.D. Cal. Mar. 30, 2016) (certifying 10-jurisdiction class of purchasers of cold remedies, denying motion for summary judgment, and denying motions to exclude plaintiff's expert witnesses).

*Salazar v. Honest Tea, Inc.*, 2015 WL 7017050 (E.D. Cal. Nov. 12, 2015) (denying motion for summary judgment).

*Dei Rossi v. Whirlpool Corp.*, 2015 WL 1932484 (E.D. Cal. Apr. 27, 2015) (certifying California class of purchasers of refrigerators that were mislabeled as Energy Star qualified).

*Bayol v. Zipcar, Inc.*, 78 F.Supp.3d 1252 (N.D. Cal. 2015) (denying motion to dismiss claims alleging unlawful late fees under California Civil Code § 1671).

*Forcellati v. Hyland's, Inc.*, 2015 WL 9685557 (C.D. Cal. Jan. 12, 2015) (denying motion for summary judgment in case alleging false advertising of homeopathic cold and flu remedies for children).

*Bayol v. Zipcar, Inc.*, 2014 WL 4793935 (N.D. Cal. Sept. 25, 2014) (denying motion to transfer venue pursuant to a forum selection clause).

*Forcellati v. Hyland's Inc.*, 2014 WL 1410264 (C.D. Cal. Apr. 9, 2014) (certifying nationwide class of purchasers of homeopathic cold and flu remedies for children).

*Hendricks v. StarKist Co.*, 30 F.Supp.3d 917 (N.D. Cal. 2014) (denying motion to dismiss in case alleging underfilling of 5-ounce cans of tuna).

*Dei Rossi v. Whirlpool Corp.*, 2013 WL 5781673 (E.D. Cal. October 25, 2013) (denying motion to dismiss in case alleging that certain KitchenAid refrigerators were misrepresented as Energy Star qualified).

*Forcellati v. Hyland's Inc.*, 876 F.Supp.2d 1155 (C.D. Cal. 2012) (denying motion to dismiss complaint alleging false advertising regarding homeopathic cold and flu remedies for children).

*Clerkin v. MyLife.com*, 2011 WL 3809912 (N.D. Cal. August 29, 2011) (denying defendants' motion to dismiss in case alleging false and misleading advertising by a social networking company).

*In re Cellphone Termination Fee Cases*, 186 Cal.App.4th 1380 (2010) (affirming order approving \$21 million class action settlement).

*Gatton v. T-Mobile USA, Inc.*, 152 Cal.App.4th 571 (2007) (affirming order denying motion to compel arbitration).

#### **Selected Class Settlements**

*Melgar v. Zicam* (Eastern District of California) - \$16 million class settlement of claims alleging cold medicine was ineffective.

*Gastelum v. Frontier California Inc.* (San Francisco Superior Court) - \$10.9 million class action settlement of claims alleging that a residential landline service provider charged unlawful late fees.

*West v. California Service Bureau, Inc.* (Northern District of California) - \$4.1 million class settlement of claims under the Telephone Consumer Protection Act.

*Gregorio v. Premier Nutrition Corp.* (Southern District of New York) - \$9 million class settlement of false advertising claims against protein shake manufacturer.

*Morris v. SolarCity Corp.* (Northern District of California) - \$15 million class settlement of claims under the Telephone Consumer Protection Act.

*Retta v. Millennium Products, Inc.* (Central District of California) - \$8.25 million settlement to resolve claims of bottled tea purchasers for alleged false advertising.

*Forcellati v. Hyland's* (Central District of California) – nationwide class action settlement providing full refunds to purchasers of homeopathic cold and flu remedies for children.

*Dei Rossi v. Whirlpool* (Eastern District of California) – class action settlement providing \$55 cash payments to purchasers of certain KitchenAid refrigerators that allegedly mislabeled as Energy Star qualified.

*In Re NVIDIA GTX 970 Graphics Chip Litigation* (Northern District of California) - \$4.5 million class action settlement of claims alleging that a computer graphics card was sold with false and

misleading representations concerning its specifications and performance.

*Hendricks v. StarKist Co.* (Northern District of California) – \$12 million class action settlement of claims alleging that 5-ounce cans of tuna were underfilled.

*In re Zakskorn v. American Honda Motor Co.* Honda (Eastern District of California) – nationwide settlement providing for brake pad replacement and reimbursement of out-of-pocket expenses in case alleging defective brake pads on Honda Civic vehicles manufactured between 2006 and 2011.

*Correa v. Sensa Products, LLC* (Los Angeles Superior Court) - \$9 million settlement on behalf of purchasers of the Sensa weight loss product.

*In re Pacific Bell Late Fee Litigation* (Contra Costa County Superior Court) - \$38.6 million settlement on behalf of Pac Bell customers who paid an allegedly unlawful late payment charge.

*In re Haier Freezer Consumer Litigation* (Northern District of California) - \$4 million settlement, which provided for cash payments of between \$50 and \$325.80 to class members who purchased the Haier HNCM070E chest freezer.

*Thomas v. Global Vision Products, Inc.* (Alameda County Superior Court) - \$30 million settlement on behalf of a class of purchasers of a hair loss remedy.

*Guyette v. Viacom, Inc.* (Alameda County Superior Court) - \$13 million settlement for a class of cable television subscribers who alleged that the defendant had improperly failed to share certain tax refunds with its subscribers.

### **JOSEPH I. MARCHESE**

Joseph I. Marchese is a Partner with Bursor & Fisher, P.A. Joe focuses his practice on consumer class actions, employment law disputes, and commercial litigation. He has represented corporate and individual clients in a wide array of civil litigation, and has substantial trial and appellate experience.

Joe has diverse experience in litigating and resolving consumer class actions involving claims of mislabeling, false or misleading advertising, privacy violations, unlawful and junk fees, data breach claims, and violations of the Telephone Consumer Protection Act and Servicemembers Civil Relief Act.

Joe also has significant experience in multidistrict litigation proceedings. Recently, he served on the Plaintiffs' Executive Committee in *In Re: Blue Buffalo Company, Ltd. Marketing And Sales Practices Litigation*, MDL No. 2562, which resulted in a \$32 million consumer class settlement. Currently, he serves on the Plaintiffs' Steering Committee for Economic Reimbursement in *In Re: Valsartan Products Liability Litigation*, MDL. No. 2875.

Joe is admitted to the State Bar of New York and is a member of the bars of the United States District Courts for the Southern District of New York, the Eastern District of New York,

and the Eastern District of Michigan, as well as the United States Courts of Appeals for the First, Second and Sixth Circuits.

Joe graduated from Boston University School of Law in 2002 where he was a member of The Public Interest Law Journal. In 1998, Joe graduated with honors from Bucknell University.

**Selected Published Decisions:**

*Farwell v. Google, LLC*, 595 F. Supp. 3d 702 (C.D. Ill. Mar. 31, 2022), denying defendant's motion to dismiss BIPA claims brought on behalf of Illinois students using Google's Workspace for Education platform.

*Boelter v. Hearst Communications, Inc.*, 269 F. Supp. 3d 172 (S.D.N.Y. Sept. 7, 2017), granting plaintiff's motion for partial summary judgment on state privacy law violations in putative class action.

*Boelter v. Hearst Communications, Inc.*, 192 F. Supp. 3d 427 (S.D.N.Y. June 17, 2016), denying publisher's motion to dismiss its subscriber's allegations of state privacy law violations in putative class action.

*In re Scotts EZ Seed Litigation*, 304 F.R.D. 397 (S.D.N.Y. 2015), granting class certification of false advertising and other claims brought by New York and California purchasers of grass seed product.

*Ebin v. Kangadis Food Inc.*, 297 F.R.D. 561 (S.D.N.Y. 2014), granting nationwide class certification of false advertising and other claims brought by purchasers of purported "100% Pure Olive Oil" product.

*In re Michaels Stores Pin Pad Litigation*, 830 F. Supp. 2d 518 (N.D. Ill. 2011), denying retailer's motion to dismiss its customers' state law consumer protection and privacy claims in data breach putative class action.

**Selected Class Settlements:**

*Schreiber v. Mayo Foundation*, Case No. 22-cv-0188-HYJ-RSK (W.D. Mich. 2024) – final approval granted for \$52.5 million class settlement to resolve claims of periodical subscribers for alleged statutory privacy violations.

*Edwards v. Mid-Hudson Valley Federal Credit Union*, Case No. 22-cv-00562-TJM-CFH (N.D.N.Y. 2023) – final approval granted for \$2.2 million class settlement to resolve claims alleging unlawfully charged overdraft fees on accounts with sufficient funds.

*Benbow v. SmileDirectClub, LLC*, Case No. 2020-CH-07269 (Cir. Ct. Cook Cnty. 2022) – final approval granted for \$11.5 million class settlement to resolve claims for alleged TCPA violations.

*Marquez v. Google LLC*, Case No. 2021-CH-1460 (Cir. Ct. Cook Cnty. 2022) – final approval granted for \$100 million class settlement to resolve alleged BIPA violations of Illinois residents appearing on the Google Photos platform.

*Edwards v. Hearst Communications, Inc.*, Case No. 15-cv-09279-AT (S.D.N.Y. 2019) – final approval granted for \$50 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

*Moeller v. Advance Magazine Publishers, Inc. d/b/a Condé Nast*, Case No. 15-cv-05671-NRB (S.D.N.Y. 2019) – final approval granted for \$13.75 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

*In re Scotts EZ Seed Litigation*, Case No. 12-cv-4727-VB (S.D.N.Y. 2018) – final approval granted for \$47 million class settlement to resolve false advertising claims of purchasers of combination grass seed product.

*In Re: Blue Buffalo Marketing And Sales Practices Litigation*, Case No. 14-MD-2562-RWS (E.D. Mo. 2016) – final approval granted for \$32 million class settlement to resolve claims of pet owners for alleged false advertising of pet foods.

*Rodriguez v. Citimortgage, Inc.*, Case No. 11-cv-4718-PGG (S.D.N.Y. 2015) – final approval granted for \$38 million class settlement to resolve claims of military servicemembers for alleged foreclosure violations of the Servicemembers Civil Relief Act, where each class member was entitled to \$116,785 plus lost equity in the foreclosed property and interest thereon.

*O'Brien v. LG Electronics USA, Inc., et al.*, Case No. 10-cv-3733-DMC (D.N.J. 2011) – final approval granted for \$23 million class settlement to resolve claims of Energy Star refrigerator purchasers for alleged false advertising of the appliances' Energy Star qualification.

### **SARAH N. WESTCOT**

Sarah N. Westcot is the Managing Partner of Bursor & Fisher's Miami office. She focuses her practice on consumer class actions, complex business litigation, and mass torts.

She has represented clients in a wide array of civil litigation, and has substantial trial and appellate experience. Sarah served as trial counsel in *Ayyad v. Sprint Spectrum L.P.*, where Bursor & Fisher won a jury verdict defeating Sprint's \$1.06 billion counterclaim and securing the class's recovery of more than \$275 million in cash and debt relief.

Sarah also has significant experience in high-profile, multi-district litigations. She currently serves on the Plaintiffs' Steering Committee in *In re Zantac (Ranitidine) Products Liability Litigation*, MDL No. 2924 (S.D. Florida). She also serves on the Plaintiffs' Executive Committee in *In re Apple Inc. App Store Simulated Casino-Style Games Litigation*, MDL No. 2985 (N.D. Cal.) and *In Re: Google Play Store Simulated Casino-Style Games Litigation*, MDL No. 3001 (N.D. Cal.).

Sarah is admitted to the State Bars of California and Florida, and is a member of the bars of the United States District Courts for the Northern, Central, Southern, and Eastern Districts of California, the United States District Courts for the Southern and Middle Districts of Florida, and the bars of the United States Courts of Appeals for the Second, Eighth, and Ninth Circuits.

Sarah received her Juris Doctor from the University of Notre Dame Law School in 2009. During law school, she was a law clerk with the Cook County State's Attorney's Office in Chicago and the Santa Clara County District Attorney's Office in San Jose, CA, gaining early trial experience in both roles. She graduated with honors from the University of Florida in 2005.

Sarah is a member of The National Trial Lawyers Top 100 Civil Plaintiff Lawyers, and was selected to The National Trial Lawyers Top 40 Under 40 Civil Plaintiff Lawyers for 2022.

### **NEAL J. DECKANT**

Neal J. Deckant is a Partner with Bursor & Fisher, P.A., where he serves as the firm's Head of Information & e-Discovery. Neal focuses his practice on complex business litigation and consumer class actions. Prior to joining Bursor & Fisher, Neal counseled low-income homeowners facing foreclosure in East Boston.

Neal is admitted to the State Bars of California and New York, and is a member of the bars of the United States District Court for the Northern District of California, the United States District Court for the Eastern District of California, the United States District Court for the Central District of California, the United States District Court for the Southern District of California, the United States District Court for the Southern District of New York, the United States District Court for the Eastern District of New York, and the bars of the United States Courts of Appeals for the Second and Ninth Circuits.

Neal received his Juris Doctor from Boston University School of Law in 2011, graduating cum laude with two Dean's Awards. During law school, Neal served as a Senior Articles Editor for the Review of Banking and Financial Law, where he authored two published articles about securitization reforms, both of which were cited by the New York Court of Appeals, the highest court in the state. Neal was also awarded Best Oral Argument in his moot court section, and he served as a Research Assistant for his Securities Regulation professor. Neal has also been honored as a 2014, 2015, 2016, and 2017 Super Lawyers Rising Star. In 2007, Neal graduated with Honors from Brown University with a dual major in East Asian Studies and Philosophy.

### **Selected Published Decisions:**

*Martinelli v. Johnson & Johnson*, 2019 WL 1429653 (N.D. Cal. Mar. 29, 2019), granting class certification of false advertising and other claims brought by purchasers of Benecol spreads labeled with the representation "No Trans Fats."

*Dzielak v. Whirlpool Corp.*, 2017 WL 6513347 (D.N.J. Dec. 20, 2017), granting class certification of consumer protection claims brought by purchasers of Maytag Centennial washing machines marked with the "Energy Star" logo.

*Duran v. Obesity Research Institute, LLC*, 204 Cal. Rptr. 3d 896 (Cal. Ct. App. 2016), reversing and remanding final approval of a class action settlement on appeal, regarding allegedly mislabeled dietary supplements, in connection with a meritorious objection.

*Marchuk v. Faruqi & Faruqi, LLP, et al.*, 100 F. Supp. 3d 302 (S.D.N.Y. 2015), granting individual and law firm defendants' motion for judgment as a matter of law on plaintiff's claims for retaliation and defamation, as well as for all claims against law firm partners, Nadeem and Lubna Faruqi.

*Ebin v. Kangadis Food Inc.*, 297 F.R.D. 561 (S.D.N.Y. 2014), granting nationwide class certification of false advertising and other claims brought by purchasers of purported "100% Pure Olive Oil" product.

*Ebin v. Kangadis Food Inc.*, 2014 WL 737878 (S.D.N.Y. Feb. 25, 2014), denying distributor's motion for summary judgment against nationwide class of purchasers of purported "100% Pure Olive Oil" product.

#### **Selected Class Settlements:**

*In Re NVIDIA GTX 970 Graphics Chip Litigation*, Case No. 15-cv-00760-PJH (N.D. Cal. Dec. 7, 2016) – final approval granted for \$4.5 million class action settlement to resolve claims that a computer graphics card was allegedly sold with false and misleading representations concerning its specifications and performance.

*Hendricks v. StarKist Co.*, 2016 WL 5462423 (N.D. Cal. Sept. 29, 2016) – final approval granted for \$12 million class action settlement to resolve claims that 5-ounce cans of tuna were allegedly underfilled.

*In re: Kangadis Food Inc.*, Case No. 8-14-72649 (Bankr. E.D.N.Y. Dec. 17, 2014) – class action claims resolved for \$2 million as part of a Chapter 11 plan of reorganization, after a corporate defendant filed for bankruptcy, following claims that its olive oil was allegedly sold with false and misleading representations.

#### **Selected Publications:**

Neal Deckant, *X. Reforms of Collateralized Debt Obligations: Enforcement, Accounting and Regulatory Proposals*, 29 Rev. Banking & Fin. L. 79 (2009) (cited in *Quadrant Structured Products Co., Ltd. v. Vertin*, 16 N.E.3d 1165, 1169 n.8 (N.Y. 2014)).

Neal Deckant, *Criticisms of Collateralized Debt Obligations in the Wake of the Goldman Sachs Scandal*, 30 Rev. Banking & Fin. L. 407 (2010) (cited in *Quadrant Structured Products Co., Ltd. v. Vertin*, 16 N.E.3d 1165, 1169 n.8 (N.Y. 2014)); *Lyon Village Venetia, LLC v. CSE Mortgage LLC*, 2016 WL 476694, at \*1 n.1 (Md. Ct. Spec. App. Feb. 4, 2016); Ivan Ascher, *Portfolio Society: On the Capitalist Mode of Prediction*, at 141, 153, 175 (Zone Books / The MIT Press 2016); Devon J. Steinmeyer, *Does State National Bank of Big Spring v. Geithner Stand a Fighting Chance?*, 89 Chi.-Kent. L. Rev. 471, 473 n.13 (2014)).

**YITZCHAK KOPEL**

Yitzchak Kopel is a Partner with Bursor & Fisher, P.A. Yitz focuses his practice on consumer class actions and complex business litigation. He has represented corporate and individual clients before federal and state courts, as well as in arbitration proceedings.

Yitz has substantial experience in successfully litigating and resolving consumer class actions involving claims of consumer fraud, data breaches, and violations of the telephone consumer protection act. Since 2014, Yitz has obtained class certification on behalf of his clients five times, three of which were certified as nationwide class actions. Bursor & Fisher was appointed as class counsel to represent the certified classes in each of the cases.

Yitz is admitted to the State Bars of New York and New Jersey, the bar of the United States Court of Appeals for the Second, Eleventh, and Ninth Circuits, and the bars of the United States District Courts for the Southern District of New York, Eastern District of New York, Eastern District of Missouri, Eastern District of Wisconsin, Northern District of Illinois, and District of New Jersey.

Yitz received his Juris Doctorate from Brooklyn Law School in 2012, graduating *cum laude* with two Dean's Awards. During law school, Yitz served as an Articles Editor for the Brooklyn Law Review and worked as a Law Clerk at Shearman & Sterling. In 2009, Yitz graduated *cum laude* from Queens College with a B.A. in Accounting.

**Selected Published Decisions:**

*Bassaw v. United Industries Corp.*, 482 F.Supp.3d 80, 2020 WL 5117916 (S.D.N.Y. Aug. 31, 2020), denying motion to dismiss claims in putative class action concerning insect foggers.

*Poppiti v. United Industries Corp.*, 2020 WL 1433642 (E.D. Mo. Mar. 24, 2020), denying motion to dismiss claims in putative class action concerning citronella candles.

*Bakov v. Consolidated World Travel, Inc.*, 2019 WL 6699188 (N.D. Ill. Dec. 9, 2019), granting summary judgment on behalf of certified class in robocall class action.

*Krumm v. Kittrich Corp.*, 2019 WL 6876059 (E.D. Mo. Dec. 17, 2019), denying motion to dismiss claims in putative class action concerning mosquito repellent.

*Crespo v. S.C. Johnson & Son, Inc.*, 394 F. Supp. 3d 260 (S.D.N.Y. 2019), denying defendant's motion to dismiss fraud and consumer protection claims in putative class action regarding Raid insect fogger.

*Bakov v. Consolidated World Travel, Inc.*, 2019 WL 1294659 (N.D. Ill. Mar. 21, 2019), certifying a class of persons who received robocalls in the state of Illinois.

*Bourbia v. S.C. Johnson & Son, Inc.*, 375 F. Supp. 3d 454 (S.D.N.Y. 2019), denying defendant's motion to dismiss fraud and consumer protection claims in putative class action regarding mosquito repellent.

*Hart v. BHH, LLC*, 323 F. Supp. 3d 560 (S.D.N.Y. 2018), denying defendants' motion for summary judgment in certified class action involving the sale of ultrasonic pest repellents.

*Hart v. BHH, LLC*, 2018 WL 3471813 (S.D.N.Y. July 19, 2018), denying defendants' motion to exclude plaintiffs' expert in certified class action involving the sale of ultrasonic pest repellents.

*Penrose v. Buffalo Trace Distillery, Inc.*, 2018 WL 2334983 (E.D. Mo. Feb. 5, 2018), denying bourbon producers' motion to dismiss fraud and consumer protection claims in putative class action.

*West v. California Service Bureau, Inc.*, 323 F.R.D. 295 (N.D. Cal. 2017), certifying a nationwide class of "wrong-number" robocall recipients.

*Hart v. BHH, LLC*, 2017 WL 2912519 (S.D.N.Y. July 7, 2017), certifying nationwide class of purchasers of ultrasonic pest repellents.

*Browning v. Unilever United States, Inc.*, 2017 WL 7660643 (C.D. Cal. Apr. 26, 2017), denying motion to dismiss fraud and warranty claims in putative class action concerning facial scrub product.

*Brenner v. Procter & Gamble Co.*, 2016 WL 8192946 (C.D. Cal. Oct. 20, 2016), denying motion to dismiss warranty and consumer protection claims in putative class action concerning baby wipes.

*Hewlett v. Consolidated World Travel, Inc.*, 2016 WL 4466536 (E.D. Cal. Aug. 23, 2016), denying telemarketer's motion to dismiss TCPA claims in putative class action.

*Bailey v. KIND, LLC*, 2016 WL 3456981 (C.D. Cal. June 16, 2016), denying motion to dismiss fraud and warranty claims in putative class action concerning snack bars.

*Hart v. BHH, LLC*, 2016 WL 2642228 (S.D.N.Y. May 5, 2016) denying motion to dismiss warranty and consumer protection claims in putative class action concerning ultrasonic pest repellents.

*Marchuk v. Faruqi & Faruqi, LLP, et al.*, 100 F. Supp. 3d 302 (S.D.N.Y. 2015), granting clients' motion for judgment as a matter of law on claims for retaliation and defamation in employment action.

*In re Scotts EZ Seed Litigation*, 304 F.R.D. 397 (S.D.N.Y. 2015), granting class certification of false advertising and other claims brought by New York and California purchasers of grass seed product.

*Brady v. Basic Research, L.L.C.*, 101 F. Supp. 3d 217 (E.D.N.Y. 2015), denying diet pill manufacturers' motion to dismiss its purchasers' allegations for breach of express warranty in putative class action.

*Ward v. TheLadders.com, Inc.*, 3 F. Supp. 3d 151 (S.D.N.Y. 2014), denying online job board's motion to dismiss its subscribers' allegations of consumer protection law violations in putative class action.

*Ebin v. Kangadis Food Inc.*, 297 F.R.D. 561 (S.D.N.Y. 2014), granting nationwide class certification of false advertising and other claims brought by purchasers of purported "100% Pure Olive Oil" product.

*Ebin v. Kangadis Food Inc.*, 2014 WL 737878 (S.D.N.Y. Feb. 25, 2014), denying distributor's motion for summary judgment against nationwide class of purchasers of purported "100% Pure Olive Oil" product.

#### **Selected Class Settlements:**

*Hart v. BHH, LLC*, Case No. 1:15-cv-04804 (S.D.N.Y. Sept. 22, 2020), resolving class action claims regarding ultrasonic pest repellers.

*In re: Kangadis Food Inc.*, Case No. 8-14-72649 (Bankr. E.D.N.Y. Dec. 17, 2014), resolving class action claims for \$2 million as part of a Chapter 11 plan of reorganization, after a corporate defendant filed for bankruptcy following the certification of nationwide claims alleging that its olive oil was sold with false and misleading representations.

*West v. California Service Bureau*, Case No. 4:16-cv-03124-YGR (N.D. Cal. Jan. 23, 2019), resolving class action claims against debt-collector for wrong-number robocalls for \$4.1 million.

#### **PHILIP L. FRAIETTA**

Philip L. Fraietta is a Partner with Bursor & Fisher, P.A. Phil focuses his practice on data privacy, complex business litigation, consumer class actions, and employment law disputes. Phil has been named a "Rising Star" in the New York Metro Area by Super Lawyers<sup>®</sup> every year since 2019.

Phil has significant experience in litigating consumer class actions, particularly those involving privacy claims under statutes such as the Michigan Preservation of Personal Privacy Act, the Illinois Biometric Information Privacy Act, and Right of Publicity statutes. Since 2016, Phil has recovered over \$100 million for class members in privacy class action settlements. In addition to privacy claims, Phil has significant experience in litigating and settling class action claims involving false or misleading advertising.

Phil is admitted to the State Bars of New York, New Jersey, Illinois, Michigan, and California, the bars of the United States District Courts for the Southern District of New York, the Eastern District of New York, the Western District of New York, the Northern District of New York, the District of New Jersey, the Eastern District of Michigan, the Western District of Michigan, the Northern District of Illinois, the Central District of Illinois, and the United States Court of Appeals for the Second, Third, and Ninth Circuits. Phil was a Summer Associate with Bursor & Fisher prior to joining the firm.

Phil received his Juris Doctor from Fordham University School of Law in 2014, graduating cum laude. During law school, Phil served as an Articles & Notes Editor for the Fordham Law Review, and published two articles. In 2011, Phil graduated cum laude from Fordham University with a B.A. in Economics.

**Selected Published Decisions:**

*Fischer v. Instant Checkmate LLC*, 2022 WL 971479 (N.D. Ill. Mar. 31, 2022), certifying class of Illinois residents for alleged violations of Illinois' Right of Publicity Act by background reporting website.

*Kolebuck-Utz v. Whitepages Inc.*, 2021 WL 157219 (W.D. Wash. Apr. 22, 2021), denying defendant's motion to dismiss for alleged violations of Ohio's Right to Publicity Law.

*Bergeron v. Rochester Institute of Technology*, 2020 WL 7486682 (W.D.N.Y. Dec. 18, 2020), denying university's motion to dismiss for failure to refund tuition and fees for the Spring 2020 semester in light of the COVID-19 pandemic.

*Porter v. NBTY, Inc.*, 2019 WL 5694312 (N.D. Ill. Nov. 4, 2019), denying supplement manufacturer's motion for summary judgment on consumers' allegations of false advertising relating to whey protein content.

*Boelter v. Hearst Communications, Inc.*, 269 F. Supp. 3d 172 (S.D.N.Y. 2017), granting plaintiff's motion for partial summary judgment on state privacy law violations in putative class action.

**Selected Class Settlements:**

*Edwards v. Hearst Communications, Inc.*, Case No. 15-cv-09279-AT (S.D.N.Y. 2019) – final approval granted for \$50 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

*Ruppel v. Consumers Union of United States, Inc.*, Case No. 16-cv-02444-KMK (S.D.N.Y. 2018) – final approval granted for \$16.375 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

*Moeller v. Advance Magazine Publishers, Inc. d/b/a Condé Nast*, Case No. 15-cv-05671-NRB (S.D.N.Y. 2019) – final approval granted for \$13.75 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

*Benbow v. SmileDirectClub, LLC*, Case No. 2020-CH-07269 (Cir. Ct. Cook Cnty. 2021) – final approval granted for \$11.5 million class settlement to resolve claims for alleged TCPA violations.

*Gregorio v. Premier Nutrition Corp.*, Case No. 17-cv-05987-AT (S.D.N.Y. 2019) – final approval granted for \$9 million class settlement to resolve claims of protein shake purchasers for alleged false advertising.

*Taylor v. Trusted Media Brands, Inc.*, Case No. 16-cv-01812-KMK (S.D.N.Y. 2018) – final approval granted for \$8.225 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

*Moeller v. American Media, Inc.*, Case No. 16-cv-11367-JEL (E.D. Mich. 2017) – final approval granted for \$7.6 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

*Rocchio v. Rutgers, The State University of New Jersey*, Case No. MID-L-003039-20 (Sup. Ct. Middlesex Cnty. 2022) – final approval granted for \$5 million class settlement to resolve claims for failure to refund mandatory fees for the Spring 2020 semester in light of the COVID-19 pandemic.

*Heigl v. Waste Management of New York, LLC*, Case No. 19-cv-05487-WFK-ST (E.D.N.Y. 2021) – final approval granted for \$2.7 million class settlement to resolve claims for charging allegedly unlawful fees pertaining to paper billing.

*Frederick v. Examsoft Worldwide, Inc.*, Case No. 2021L001116 (Cir. Ct. DuPage Cnty. 2022) – final approval granted for \$2.25 million class settlement to resolve claims for alleged BIPA violations.

### **ALEC M. LESLIE**

Alec Leslie is a Partner with Bursor & Fisher, P.A. He focuses his practice on consumer class actions, employment law disputes, and complex business litigation.

Alec is admitted to the State Bar of New York and is a member of the bar of the United States District Courts for the Southern and Eastern Districts of New York. Alec was a Summer Associate with Bursor & Fisher prior to joining the firm.

Alec received his Juris Doctor from Brooklyn Law School in 2016, graduating *cum laude*. During law school, Alec served as an Articles Editor for Brooklyn Law Review. In addition, Alec served as an intern to the Honorable James C. Francis for the Southern District of New York and the Honorable Vincent Del Giudice, Supreme Court, Kings County. Alec graduated from the University of Colorado with a B.A. in Philosophy in 2012.

### **Selected Class Settlements:**

*Gregorio v. Premier Nutrition Corp.*, Case No. 17-cv-05987-AT (S.D.N.Y. 2019) – final approval granted for class settlement to resolve claims of protein shake purchasers for alleged false advertising.

*Wright v. Southern New Hampshire Univ.*, Case No. 1:20-cv-00609-LM (D.N.H. 2021) – final approval granted for class settlement to resolve claims over COVID-19 tuition and fee refunds to students.

*Mendoza et al. v. United Industries Corp.*, Case No. 21PH-CV00670 (Phelps Cnty. Mo. 2021) – final approval granted for class settlement to resolve false advertising claims on insect repellent products.

*Kaupelis v. Harbor Freight Tools USA, Inc.*, Case No. 8:19-cv-01203-JVS-DFM (C.D. Cal. 2021) – final approval granted for class settlement involving allegedly defective and dangerous chainsaws.

*Rocchio v. Rutgers Univ.*, Case No. MID-L-003039-20 (Middlesex Cnty. N.J. 2021) – final approval granted for class settlement to resolve claims over COVID-19 fee refunds to students.

*Malone v. Western Digital Corporation*, Case No. 5:20-cv-03584-NC (N.D. Cal.) – final approval granted for class settlement to resolve false advertising claims on hard drive products.

*Frederick et al. v. ExamSoft Worldwide, Inc.*, Case No. 2021L001116 (DuPage Cnty. Ill. 2021) – final approval granted for class settlement to resolve claims over alleged BIPA violations with respect to exam proctoring software.

*D’Amario et al. v. Univ. of Tampa*, Case No. 7:20-cv-07344 (S.D.N.Y. 2022) – final approval granted for class settlement to resolve claims over COVID-19 fee refunds to students.

*Olin et al. v. Meta Platforms, Inc.*, Case No. 3:18-cv-01881-RS (N.D. Cal. 2022) – final approval granted for class settlement involving invasion of privacy claims.

*Croft v. SpinX Games et al.*, Case No. 2:20-cv-01310-RSM (W.D. Wash. 2022) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

*Armstead v. VGW Malta Ltd. et al.*, Case No. 22-CI-00553 (Henderson Cnty. Ky. 2023) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

*Barbieri v. Tailored Brands, Inc.*, Index No. 616696/2022 (Nassau Cnty. N.Y.) – final approval granted for class settlement involving untimely wage payments to employees.

*Metzner et al. v. Quinnipiac Univ.*, Case No. 3:20-cv-00784 (D. Conn.) – final approval granted for class settlement to resolve claims over COVID-19 fee refunds to students.

*In re GE/Canon Data Breach*, Case No. 1:20-cv-02903 (S.D.N.Y.) – final approval granted for class settlement to resolve data breach claims.

*Davis v. Urban Outfitters, Inc.*, Index No. 612162/2022 (Nassau Cnty. N.Y.) – final approval granted for class settlement involving untimely wage payments to employees.

*Armstead v. VGW Malta LTD et al.*, Civil Action No. 22-CI-00553 (Henderson Cir. Ct. Ky.) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

*Casler et al. v. Mclane Company, Inc. et al.*, Index No. 616432/2022 (Nassau Cnty. N.Y.) – final approval granted for class settlement involving untimely wage payments to employees.

*Wyland v. Woopla, Inc.*, Civil Action No. 2023-CI-00356 (Henderson Cir. Ct. Ky.) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

*Graziano et al. v. Lego Systems, Inc.*, Index No. 611615/2022 (Nassau Cnty. N.Y.) – final approval granted for class settlement involving untimely wage payments to employees.

*Lipsky et al. v. American Behavioral Research Institute, LLC*, Case No. 50-2023-CA-011526-XXXX-MB (Palm Beach Cnty. Fl.) – final approval granted to resolve allegedly deceptive automatic renewal and product efficacy claims.

*Whiting v. Yellow Social Interactive Ltd.*, Civil Action No. 2023-CI-00358 (Henderson Cir. Ct. Ky.) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

#### **STEPHEN BECK**

Stephen is an Associate with Bursor & Fisher, P.A. Stephen focuses his practice on complex civil litigation and class actions.

Stephen is admitted to the State Bar of Florida and is a member of the bars of the United States District Courts for the Southern and Middle Districts of Florida, the Eastern District of Missouri, and the Northern District of Illinois.

Stephen received his Juris Doctor from the University of Miami School of Law in 2018. During law school, Stephen received an Honors distinction in the Litigation Skills Program and was awarded the Honorable Theodore Klein Memorial Scholarship for excellence in written and oral advocacy. Stephen also received the CALI Award in Legislation for earning the highest grade on the final examination. Stephen graduated from the University of North Florida with a B.A. in Philosophy in 2015.

#### **STEFAN BOGDANOVICH**

Stefan Bogdanovich is an Associate with Bursor & Fisher, P.A. Stefan litigates complex civil and class actions typically involving privacy, intellectual property, entertainment, and false advertising law.

Prior to working at Bursor & Fisher, Stefan practiced at two national law firms in Los Angeles. He helped represent various companies in false advertising and IP infringement cases, media companies in defamation cases, and motion picture producers in royalty disputes. He also advised corporations and public figures on complying with various privacy and advertising laws and regulations.

Stefan is admitted to the State Bar of California and all of the California Federal District Courts. He is also a Certified Information Privacy Professional.

Stefan received his Juris Doctor from the University of Southern California Gould School of Law in 2018, where he was a member of the Hale Moot Court Honors Program and the Trial Team. He received the highest grade in his class in three subjects, including First Amendment Law.

### **MAX S. ROBERTS**

Max Roberts is an Associate in Bursor & Fisher's New York office. Max focuses his practice on class actions concerning data privacy and consumer protection. Max was a Summer Associate with Bursor & Fisher prior to joining the firm and is now Co-Chair of the firm's Appellate Practice Group.

In 2023, Max was named "Rising Star" in the New York Metro Area by Super Lawyers®.

Max received his Juris Doctor from Fordham University School of Law in 2019, graduating *cum laude*. During law school, Max was a member of Fordham's Moot Court Board, the Brennan Moore Trial Advocates, and the Fordham Urban Law Journal, for which he published a note entitled [\*Weaning Drug Manufacturers Off Their Painkiller: Creating an Exception to the Learned Intermediary Doctrine in Light of the Opioid Crisis\*](#). In addition, Max served as an intern to the Honorable Vincent L. Briccetti of the Southern District of New York and the Fordham Criminal Defense Clinic. Max graduated from Johns Hopkins University in 2015 with a B.A. in Political Science.

Outside of the law, Max is an avid triathlete.

### **Selected Published Decisions:**

*Huertas v. Bayer US LLC*, 120 F.4th 1169 (3d Cir. 2024), reversing district court and holding plaintiffs had alleged an injury-in-fact sufficient for Article III standing. Max personally argued the appeal before the Third Circuit, which can be listened to [here](#).

*Jackson v. Amazon.com, Inc.*, 65 F.4th 1093 (9th Cir. 2023), affirming district court's denial of motion to compel arbitration. Max personally argued the appeal before the Ninth Circuit, which can be viewed [here](#).

*Javier v. Assurance IQ, LLC*, 2022 WL 1744107 (9th Cir. May 31, 2022), reversing district court and holding that Section 631 of the California Invasion of Privacy Act requires prior consent to wiretapping. Max personally argued the appeal before the Ninth Circuit, which can be viewed [here](#).

*Mora v. J&M Plating, Inc.*, 213 N.E.3d 942 (Ill. App. Ct. 2d Dist. 2022), reversing circuit court and holding that Section 15(a) of Illinois' Biometric Information Privacy Act requires an entity to establish a retention and deletion schedule for biometric data at the first moment of

possession. Max personally argued the appeal before the Second District, which can be listened to [here](#).

*Shah v. Fandom, Inc.*, --- F. Supp. 3d ---, 2024 WL 4539577 (N.D. Cal. Oct. 21, 2024), denying motion to dismiss alleged violations of California pen register statute.

*Yockey v. Salesforce, Inc.*, --- F. Supp. 3d ---, 2024 WL 3875785 (N.D. Cal. Aug. 16, 2024), denying motion dismiss alleged violations of California and Pennsylvania wiretapping statutes.

*Gladstone v. Amazon Web Services, Inc.*, --- F. Supp. 3d ---, 2024 WL 3276490 (W.D. Wash. July 2, 2024), denying motion to dismiss alleged violations of California wiretapping statute.

*Rancourt v. Meredith Corp.*, 2024 WL 381344 (D. Mass. Jan. 11, 2024), denying motion to dismiss alleged violations of federal Video Privacy Protection Act, and finding personal jurisdiction over operator of mobile application.

*Saunders v. Hearst Television, Inc.*, 711 F. Supp. 3d 24 (D. Mass. 2024), denying motion to dismiss alleged violations of federal Video Privacy Protection Act.

*Cristostomo v. New Balance Athletics, Inc.*, 647 F. Supp. 3d 1 (D. Mass. 2022), denying motion to dismiss and motion to strike class allegations in case involving sneakers marketed as “Made in the USA.”

#### **Selected Class Settlements:**

*Sholopa v. Turk Hava Yollari A.O. (d/b/a Turkish Airlines)*, Case No. 1:20-cv-3294-ALC (S.D.N.Y. 2023) – final approval granted for \$14.1 million class settlement to resolve claims of passengers whose flights with Turkish Airlines were cancelled due to COVID-19 and who did not receive refunds.

*Payero v. Mattress Firm, Inc.*, Case No. 7:21-cv-3061-VB (S.D.N.Y. 2023) – final approval granted for \$4.9 million class settlement to resolve claims of consumers who purchased allegedly defective bed frames.

*Miranda v. Golden Entertainment (NV), Inc.*, Case No. 2:20-cv-534-AT (D. Nev. 2021) – final approval granted for class settlement valued at over \$4.5 million to resolve claims of customers and employees of casino company stemming from data breach.

*Malone v. Western Digital Corp.*, Case No. 5:20-cv-3584-NC (N.D. Cal. 2021) – final approval granted for class settlement valued at \$5.7 million to resolve claims of hard drive purchasers for alleged false advertised.

*Frederick v. ExamSoft Worldwide, Inc.*, Case No. 2021-L-001116 (18th Judicial Circuit Court DuPage County, Illinois 2021) – final approval granted for \$2.25 million class settlement to resolve claims of Illinois students for alleged violations of the Illinois Biometric Information Privacy Act.

**Bar Admissions**

- New York State
- Southern District of New York
- Eastern District of New York
- Northern District of New York
- Northern District of Illinois
- Central District of Illinois
- Eastern District of Michigan
- District of Colorado
- Third Circuit Court of Appeals
- Seventh Circuit Court of Appeals
- Ninth Circuit Court of Appeals

**JULIA K. VENDITTI**

Julia K. Venditti is an Associate with Bursor & Fisher, P.A. Julia focuses her practice on complex civil litigation and class actions. Julia was a Summer Associate with Bursor & Fisher prior to joining the firm.

Julia is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

Julia received her Juris Doctor in 2020 from the University of California, Hastings College of the Law, where she graduated *cum laude* with two CALI Awards for the highest grade in her Evidence and California Community Property classes. During law school, Julia was a member of the UC Hastings Moot Court team and competed at the Evans Constitutional Law Moot Court Competition, where she finished as a national quarterfinalist and received a best brief award. Julia was also inducted into the UC Hastings Honors Society and was awarded Best Brief and an Honorable Mention for Best Oral Argument in her First-Year Moot Court section. In addition, Julia served as a Research Assistant for her Constitutional Law professor, as a Teaching Assistant for Legal Writing & Research, and as a Law Clerk at the San Francisco Public Defender's Office. In 2017, Julia graduated *magna cum laude* from Baruch College/CUNY, Weissman School of Arts and Sciences, with a B.A. in Political Science.

**JULIAN DIAMOND**

Julian Diamond is an Associate with Bursor & Fisher, P.A. Julian focuses his practice on privacy law and class actions. Julian was a Summer Associate with Bursor & Fisher prior to joining the firm.

Julian received his Juris Doctor from Columbia Law School, where he was a Harlan Fiske Stone Scholar. During law school, Julian was Articles Editor for the Columbia Journal of Environmental Law. Prior to law school, Julian worked in education. Julian graduated from California State University, Fullerton with a B.A. in History and a single subject social science teaching credential.

**MATTHEW GIRARDI**

Matt Girardi is an Associate with Bursor & Fisher, P.A. Matt focuses his practice on complex civil litigation and class actions, and has focused specifically on consumer class actions involving privacy violations, illegal gambling, financial misconduct, and false advertising. Matt was a Summer Associate with Bursor & Fisher prior to joining the firm.

Matt is admitted to the State Bar of New York, and is a member of the bars of the United States District Courts for the Southern District of New York, the Eastern District of New York, the Eastern District of Michigan, the Western District of Michigan, the First Circuit Court of Appeals, and the Ninth Circuit Court of Appeals.

Matt received his Juris Doctor from Columbia Law School in 2020, where he was a Harlan Fiske Stone Scholar. During law school, Matt was the Commentary Editor for the Columbia Journal of Tax Law, and represented fledgling businesses for Columbia's Entrepreneurship and Community Development Clinic. In addition, Matt worked as an Honors Intern in the Division of Enforcement at the U.S. Securities and Exchange Commission. Matt graduated from Brown University in 2016 with a B.A. in Economics, and worked as a Paralegal Specialist at the U.S. Department of Justice in the Antitrust Division prior to law school.

**Selected Class Settlements:**

*Armstead v. VGW Malta Ltd. et al.*, Case No. 22-CI-00553 (Henderson Cnty. Ky. 2023) – final approval granted for \$11.75 million class settlement involving allegedly deceptive and/or illegal gambling practices.

*Edwards v. Mid-Hudson Valley Federal Credit Union*, Case No. 22-cv-00562-TJM-CFH (N.D.N.Y. 2023) – final approval granted for \$2.2 million class settlement to resolve claims that an upstate New York credit union was unlawfully charging overdraft fees on accounts with sufficient funds.

*Fischer, et al. v. Instant Checkmate LLC, et al.*, No. 19-cv-04892 (N.D. Ill. 2024) – final approval granted for state-by-state non-reversionary cash settlements involving alleged violations of right of publicity statutes totaling in excess of \$10.1 million.

*Wyland v. Woopla, Inc.*, Civil Action No. 2023-CI-00356 (Henderson Cir. Ct. Ky. 2023) – final approval granted for \$835,000 class settlement involving allegedly deceptive and/or illegal gambling practices.

*Whiting v. Yellow Social Interactive Ltd.*, Civil Action No. 2023-CI-00358 (Henderson Cir. Ct. Ky. 2023) – final approval granted for \$1.32 million class settlement involving allegedly deceptive and/or illegal gambling practices.

**JENNA GAVENMAN**

Jenna Gavenman is an Associate with Bursor & Fisher, P.A. Jenna focuses her practice on complex civil litigation and consumer class actions. Jenna was a Summer Associate and a

part-time intern with Bursor & Fisher prior to joining the firm as a full-time Associate in September 2022.

Jenna is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

Jenna received her Juris Doctor in 2022 from the University of California, Hastings College of the Law (now named UC Law SF). During law school, she was awarded an Honorable Mention for Best Oral Argument in her First-Year Moot Court section. Jenna also participated in both the Medical Legal Partnership for Seniors (MLPS) and the Lawyering for Children Practicum at Legal Services for Children—two of UC Hastings's nationally renowned clinical programs. Jenna was awarded the Clinic Award for Outstanding Performance in MLPS for her contributions to the clinic. In addition, Jenna volunteered with her law school's Legal Advice and Referral Clinic and as a LevelBar Mentor.

In 2018, Jenna graduated *cum laude* from Villanova University with a B.A. in Sociology and Spanish (double major). Jenna was a Division I athlete, competing on the Villanova Women's Water Polo varsity team for four consecutive years.

#### **EMILY HORNE**

Emily Horne is an Associate with Bursor & Fisher, P.A. Emily focuses her practice on complex civil litigation and consumer class actions. Emily was a Summer Associate with Bursor & Fisher prior to joining the firm.

Emily is admitted to the State Bar of California.

Emily received her Juris Doctor from the University of California, Hastings College of the Law in 2022 (now UC, Law SF). During law school, Emily served as Editor-in-Chief for the UC Hastings Communications and Entertainment Law Journal, and she competed on the Moot Court team. Emily also served as a judicial extern in the Northern District of California and as a Teaching Assistant for Legal Writing & Research. In 2015, Emily graduated from Scripps College with a B.A. in Sociology.

#### **IRA ROSENBERG**

Ira Rosenberg is an Associate with Bursor & Fisher, P.A. Ira focuses his practice on complex civil litigation and class actions.

Ira received his Juris Doctor in 2022 from Columbia Law School. During law school, Ira served as a Student Honors Legal Intern with Division of Enforcement at the U.S. Securities and Exchange Commission. Ira also interned during law school in the Criminal Division at the United States Attorney's Office for the Southern District of New York and with the Investor Protection Bureau at the Office of the New York State Attorney General. Ira graduated in 2018 from Beth Medrash Govoha with a B.A. in Talmudic Studies.

**LUKE SIRONSKI-WHITE**

Luke Sironski-White is an Associate with Bursor & Fisher, P.A., focusing on complex civil litigation and consumer class actions. Luke joined the firm as a full-time Associate in August 2022.

Luke is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

Luke received his Juris Doctor in 2022 from the University of California, Berkeley School of Law. During law school, Luke was on the board of the Consumer Advocacy and Protection Society (CAPS), edited for the Berkeley Journal of Employment and Labor Law, and volunteered with the Prisoner Advocacy Network.

In 2017, Luke graduated from the University of Chicago with a B.A. in Anthropology. Before entering the field of law Luke was a professional photographer and filmmaker.

**INES DIAZ**

Ines Diaz is an Associate with Bursor & Fisher, P.A. Ines focuses her practice on complex civil litigation and class actions.

Ines is admitted to the State Bar of California.

Ines received her Juris Doctor in 2023 from the University of California, Berkeley School of Law. During law school, Ines served as an Executive Editor of the California Law Review. She also served as an intern with the East Bay Community Law Center's Immigration Clinic and as a Fellow of the Berkeley Law Academic Skills Program. Additionally, Ines served as an instructor with the University of California, Berkeley Extension, Legal Studies Global Access Program where she taught legal writing to international law students. In 2021, Ines was selected for a summer externship at the California Supreme Court where she served as a judicial extern for the Honorable Mariano-Florentino Cuéllar.

**CAROLINE C. DONOVAN**

Caroline C. Donovan is an Associate with Bursor & Fisher, P.A. Caroline focuses her practice on complex civil litigation, data protection, mass arbitration, and class actions. Caroline interned with Bursor & Fisher during her third year of law school before joining full time in Fall 2023.

Caroline is admitted to the State Bar of New York.

Caroline received her Juris Doctor in 2023 from Brooklyn Law School. During law school, Caroline was a member of the Moot Court Honor Society Trial Division, where she was chosen to serve as a National Team Member. Caroline competed and coached in numerous competitions across the country, and placed second at regionals in AAJ's national competition in

both her second and third year of law school. Caroline was also the President of the Art Law Association, and the Treasurer of the Labor and Employment Law Association.

During law school, Caroline was a judicial intern for Judge Kenneth W. Chu of the National Labor Relations Board. She also interned at the United States Attorney's Office in the Eastern District of New York, as well as a securities class action firm.

### **JOSHUA B. GLATT**

Joshua Glatt is an Associate with Bursor & Fisher, P.A. Joshua focuses his practice on complex civil litigation and consumer class actions. Joshua was a Summer Associate with Bursor & Fisher prior to joining the firm as an Associate.

Joshua earned his Juris Doctor from the University of California College of the Law, San Francisco (formerly U.C. Hastings). While there, he received a CALI Award for earning the highest grade in Constitutional Law II and served on the executive boards of the Jewish Law Students Association and the American Constitution Society. Prior to law school, Joshua graduated *summa cum laude* from the Walter Cronkite School of Journalism and Mass Communication at Arizona State University in 2016 and earned a master's degree from the University of Southern California in 2018.

### **JOSHUA R. WILNER**

Joshua Wilner is an Associate with Bursor & Fisher, P.A. Joshua focuses his practice on complex civil litigation, data privacy, consumer protection, and class actions. Joshua was a Summer Associate at Bursor & Fisher prior to joining the firm full time in Fall 2023.

Joshua is admitted to the State Bar of California.

Joshua received his Juris Doctor in 2023 from Berkeley Law. During law school, he received the American Jurisprudence Award for Constitutional Law.

During law school, Joshua served on the board of the Berkeley Journal of Employment and Labor Law. Joshua also interned at Disability Rights California, Legal Aid at Work, and a private firm that worked closely with the ACLU of Northern California to enforce the California Racial Justice Act. In 2022 and 2023, Joshua worked as a research assistant for Professor Abbye Atkinson.

### **VICTORIA ZHOU**

Victoria Zhou is an Associate in Bursor & Fisher's New York office. Victoria focuses her practice on class actions concerning data privacy and consumer protection.

Victoria is admitted to the State Bar of New York.

Victoria received her Juris Doctor from Fordham Law School in 2023. During law school, Victoria served as an Associate Editor of the Moot Court Board and competed in multiple mock trial competitions as a member of the Brendan Moore Trial Advocates. In

addition, Victoria served as a judicial extern to Chief Judge Mark A. Barnett of the United States Court of International Trade. In 2019, Victoria graduated *magna cum laude* from Fei Tian College with a B.F.A. in Classical Dance.

**KYLE D. GORDON**

Kyle Gordon is an Associate with Bursor & Fisher, P.A. Kyle focuses his practice on class actions concerning data privacy and consumer protection. Kyle was a Summer Associate with Bursor & Fisher prior to joining the firm.

Kyle is admitted to the State Bar of New York.

Kyle received his Juris Doctor from Columbia Law School in 2023, where he was a Harlan Fiske Stone Scholar. During law school, Kyle was a Staff Editor for the Columbia Science and Technology Law Review. In 2020, Kyle graduated *summa cum laude* from New York University with a B.A. in Politics and became a member of Phi Beta Kappa. Prior to law school, Kyle interned in the Clerk's Office of the United States District Court for the District of Columbia.

**ELEANOR R. GRASSO**

Eleanor Grasso is an Associate with Bursor & Fisher, P.A. Eleanor focuses her practice on complex civil litigation, including data privacy and consumer protection class actions.

Eleanor is admitted to the State Bar of New York.

Eleanor earned her Juris Doctor from Fordham University School of Law. During law school, Eleanor was a member of the Fordham Journal of Intellectual Property, Media & Entertainment Law, serving as Symposium Editor for Volume XXXIV. Eleanor was also a member of the Brendan Moore Trial Advocacy Team, served as a Research Assistant, and was a member of the Board of Student Advisors.

Throughout her time in law school, Eleanor interned for the Office of the Public Defender for the Sixth Judicial Circuit of Florida in the Misdemeanor Unit, the Office of the Federal Public Defender for the Middle District of Tennessee in the Capital Habeas Unit, the ACLU of Florida, and for the Honorable Kiyoo A. Matsumoto in the United States District Court for the Eastern District of New York. Eleanor was a Summer Associate with Bursor & Fisher and also interned part-time during her third year of law school.

Eleanor earned her Bachelors from the University of Florida, with a double-major in Criminology & Law and Political Science and a minor in French & Francophone studies.

**RYAN B. MARTIN**

Ryan Martin is an Associate with Bursor & Fisher, P.A. Ryan focuses his practice on complex civil litigation and consumer class actions. He was a Summer Associate and part-time law clerk with Bursor & Fisher prior to joining the firm as a full time Associate in August 2024.

Ryan is admitted to the State Bar of California. He earned his Juris Doctor from the University of California College of the Law, San Francisco (formerly U.C. Hastings), graduating *Cum Laude* with a Concentration in Environmental Law and as a member of the Honors Society. While there, he was a Senior Production Editor of the *U.C. Law Journal*, was President of the Hastings Environmental Law Association, and was a Torts Teaching Fellow.

Prior to law school, Ryan graduated from the W.A. Franke College of Business at Northern Arizona University with a Bachelors of Science in Hotel and Restaurant Management and a minor in Business. Ryan also studied Sustainable Business and Hotel Management at the Internationale Hochschule of Applied Sciences in Bad Honnef Germany and is a certified yoga instructor.